

CHAPTER 97-180

Committee Substitute for Committee Substitute for Senate Bill No. 1824

An act relating to retirement; amending s. 121.011, F.S.; providing for purchase of retirement credit following reinstatement after suspension or dismissal under certain circumstances; amending s. 121.021, F.S.; defining the term "phased retirement program"; amending s. 121.052, F.S.; authorizing certain elected officers to elect membership in the Senior Management Service Class under specified conditions; clarifying provisions relating to purchase of retirement credit for upgraded service by certain elected officers and former elected officers; amending s. 121.053, F.S.; allowing Senior Management Service Class renewed membership service to be used by members with renewed membership in the Elected State And County Officers' Class; amending s. 121.055, F.S.; allowing certain elected officers to participate in the Senior Management Service Optional Annuity Program under certain conditions; authorizing local agency employers to reassess designation of positions for inclusion in the Senior Management Service Class; providing for removal of certain positions; providing that a Senior Management Service Optional Annuity Program benefit be paid only as a lifetime annuity; providing for State Board of Administration review of investment products; providing for payment of certain creditable service; amending s. 121.021, F.S.; redefining the term "termination" for Deferred Retirement Option Program participants; defining the term "DROP participants"; amending s. 121.091, F.S.; specifying that benefits may be payable to a participant's Deferred Retirement Option Program; providing for forfeiture of benefits for a beneficiary found guilty of killing or causing the death of the member; clarifying the effective date for a change of joint annuitant; providing certain reemployment exceptions for year 2000 computer problems; specifying that the option selection for payment of benefits shall be final at the time a benefit payment is assigned to the Deferred Retirement Option Program; specifying death benefits applicable to Deferred Retirement Option Program participants; specifying employment after retirement limitations applicable to Deferred Retirement Option Program participants; providing overview of the Deferred Retirement Option Program; providing eligibility criteria; providing for procedures for election of participation; providing for benefits payable; providing for death benefits; providing for a cost-of-living adjustment; specifying that health insurance subsidy payments are not payable; specifying that Deferred Retirement Option Program participation does not qualify as renewed membership; providing limitations on employment after participation; specifying contribution rates; specifying that Deferred Retirement Option Program participation does not exempt such participants from the forfeiture of benefits under the provisions of ss. 112.3173 and 121.091(5), F.S.; providing for administration of the program; providing an appropriation; providing an effective date dependent upon the Division of Retirement's receipt

of a favorable written determination letter and a favorable private letter ruling from the Internal Revenue Service; providing an appropriation; amending s. 121.1115, F.S.; authorizing the purchase of retirement credit under the Florida Retirement System for certain out-of-state and federal service; creating s. 121.1122, F.S.; allowing the purchase of certain in-state service; amending s. 121.121, F.S.; providing for authorized leave of absence credit after 1 month on an employer's payroll; amending s. 121.122, F.S.; allowing renewed membership in the Senior Management Service Class; amending s. 121.23; providing for reasonable attorney's fees for a disability retirement order issued by the State Retirement Commission which sustains the application of a member; amending s. 121.30, F.S.; providing for inclusion of cost-of-living adjustments in the calculation of the federal maximum benefit limit; amending s. 121.35, F.S.; providing for membership in the Florida Retirement System under certain circumstances; providing that contributions accumulated in the Florida Retirement System Trust Fund for certain participants be applied toward retroactive system membership; limiting the employee contribution to the Optional Retirement Program to the federal limitations and providing that program benefits be paid only as a lifetime annuity except in certain circumstances; providing for State Board of Administration review of investment products; amending s. 121.051, F.S.; providing for optional participation in plans other than the Florida Retirement System under certain circumstances; amending s. 238.181, F.S.; providing for participation in a phased retirement system for certain employees of a community college; repealing ss. 25.101, 25.112, 25.122, 25.131, 25.141, 25.161, 38.14, 38.15, 38.16, 38.17, 38.19, F.S., relating to retirement for justices and judges; repealing ch. 123, F.S.; the Supreme Court Justices, District Courts of Appeal Judges, and Circuit Judges Retirement System; providing an appropriation for certain attorney's fees approved by the State Retirement Commission; providing rulemaking authority; providing a finding of important state interest; providing future periodic open enrollment periods for state retirees who want to obtain health coverage; providing conditions; providing eligibility; providing an effective date.

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

Section 1. Paragraph (e) of subsection (3) of section 121.011, Florida Statutes, 1996 Supplement, is amended, and paragraph (g) is added to that subsection, to read:

121.011 Florida Retirement System.—

(3) PRESERVATION OF RIGHTS.—

(e) Any member of the Florida Retirement System or any member of an existing system under this chapter on July 1, 1975, who is not retired and who is, has been, or shall be, suspended and reinstated without compensation shall receive retirement service credit for the period of time from the date of suspension to the date of reinstatement, provided:

1. The creditable service claimed for the period of suspension does not exceed 24 months;

2. The member returns to active employment and remains on the employer's payroll for at least 30 calendar days; and

3. ~~upon~~ The member ~~pays~~ paying into the Retirement System Trust Fund the total ~~required~~ cost of providing said retirement credit. The cost to the member shall be the total employer contributions plus the total employee contributions, if applicable, based on the member's monthly compensation in effect paid to the Retirement Trust Fund for the pay period immediately preceding the period of suspension, prorated for the said period of suspension, plus interest thereon at a rate of 4 percent per annum compounded annually until July 1, 1975, and 6.5 percent interest thereafter until paid. If permitted by federal law, the member may pay into the Social Security Trust Fund the total cost, if any, of providing social security coverage for the period of suspension if any social security payments have been made by the employer for the benefit of the member during such period. Should there be any conflict as to payment for social security coverage, the payment for retirement service credit shall be made and retirement service credit granted regardless of such conflict.

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

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

a. The dismissal action taken against the member is determined to be incorrect and is negated, the employee is made whole for the period of the dismissal or any portion thereof, and employment is reinstated; and

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

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

Section 2. Subsection (43) is added to section 121.021, Florida Statutes, to read:

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

(43) "Phased retirement program" means a program contracted by the governing board of a university or community college participating under this chapter in which a retiree may be reemployed in a faculty position provided:

(a) The member retired and met the definition of termination under this section;

(b) The retired member is reemployed for not more than 780 hours during the first 12 months of his retirement; and

(c) The retired member is reemployed with the university or community college from which he or she retired.

Renewed membership for a retiree participating in a phased retirement program shall be determined in accordance with s. 121.122 or s. 121.053.

Section 3. Subsections (2), (3), and (5) of section 121.052, Florida Statutes, 1996 Supplement, are amended to read:

121.052 Membership class of elected state and county officers.—

(2) MEMBERSHIP.—~~The following holders of state and county elective office, hereinafter referred to as "elected officers," whether assuming elective office by election, reelection, or appointment, are members of the Elected State and County Officers' Class, except as provided in subsection (3):~~

(a) Any Governor, Lieutenant Governor, Cabinet officer, legislator, Supreme Court justice, district court of appeal judge, circuit judge, or state attorney assuming office on or after July 1, 1972.

(b) Any county court judge assuming office on or after October 1, 1974.

(c) Any public defender assuming office on or after July 1, 1977.

(d) Any constitutional county elected officer assuming office on or after July 1, 1981, including any sheriff, tax collector, property appraiser, supervisor of elections, clerk of the circuit court, county commissioner, school board member, or elected school board superintendent, or any elected officer of any entity with countywide jurisdiction assuming office on or after July 1, 1981, who, pursuant to general or special law, exercises powers and duties that, but for such general or special law, would be exercised by any of the constitutional county elected officers set forth in this paragraph.

(e) Any public service commissioner assuming office on or after July 1, 1972, but prior to July 1, 1979.

(f) Any elected officer of a municipality or special district on or after July 1, 1997, as provided in paragraph (3)(e).

(3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July 1, 1990, participation in the Elected State and County Officers' Class shall be compulsory for elected officers listed in paragraphs (2)(a)-(d) and (f)

assuming office on or after said date, unless the elected officer elects membership in another class or withdraws from the Florida Retirement System as provided in paragraph (3)(a)-(d) follows:

(a) Any elected officer who is or becomes dually employed and a member of the Florida Retirement System or one of the existing systems may elect membership in any system or class for which he or she is eligible. Upon becoming dually employed, the elected officer shall have a period of 6 months to notify the administrator of his or her decision, as provided in subsection (6).

(b) Upon assuming office, any sheriff shall have a period of 6 months to notify the administrator of his or her decision to remain or elect membership in the Special Risk Class in lieu of membership in the Elected State and County Officers' Class.

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

~~(d)1.(e)1.~~ Any elected officer may elect to withdraw from participating in the Florida Retirement System in any manner whatsoever. Upon assuming office, the member shall have a period of 6 months to notify the administrator of his or her decision to withdraw from the Florida Retirement System altogether. Such election shall be made in writing and a copy shall be filed with the employer.

2. Upon receipt of a request from an elected officer to withdraw from the Florida Retirement System pursuant to subparagraph 1., the administrator shall refund all moneys contributed by the elected officer to the system during the period of participation in the system, unless the elected officer has a vested right under the Florida Retirement System, in which case he or she shall not receive a refund of contributions.

3. Any elected officer who has withdrawn from the Florida Retirement System pursuant to this paragraph shall be permitted to rejoin the Elected State and County Officers' Class upon written request to the administrator.

a. Credit for prior service based on the period for which refunds were received pursuant to subparagraph 2. shall be received by an elected officer who rejoins the system upon payment to the System Trust Fund of an amount equal to the contributions refunded to the elected officer pursuant to subparagraph 2., plus 4 percent interest compounded annually from the date of refund until July 1, 1975, and 6.5 percent interest, compounded annually thereafter until the date of payment.

b. Credit for prior service based on the period during which the elected officer had withdrawn from the system, and for which no contributions were

made, shall be received by the elected officer upon payment to the System Trust Fund of an amount equal to the contributions required, under the contribution rate in effect during the period of withdrawal for which credit is being purchased, plus 6.5 percent interest, compounded annually until the date of payment. The payment of the total of such amount shall be made by the employer and the elected officer in the relative proportions provided by law for contributions during the period of withdrawal.

Failure to timely withdraw from the Elected State and County Officers' Class shall constitute an election to maintain membership in the Elected State and County Officers' Class.

(e) Effective July 1, 1997, the governing body of a municipality or special district may, by majority vote, elect to designate all its elected positions for inclusion in the Elected State and County Officers' Class. Such election shall be made between July 1, 1997, and December 31, 1997, and shall be irrevocable. The designation of such positions shall be effective the first day of the month following receipt by the division of the ordinance or resolution passed by the governing body.

(5) UPGRADED SERVICE; PURCHASE OF ADDITIONAL CREDIT.—

(a) As provided in paragraph (b), and subject to the provisions of subsection (6), if applicable, a current or former member of the Elected State and County Officers' Class an elected officer, or former elected officer who held office after his subclass of the Elected State and County Officers' Class was established, and who opted for membership in a membership class of the Florida Retirement System other than the Elected State and County Officers' Class as described in subparagraph (b)2., may purchase at his or her own expense additional retirement credit in the Elected State and County Officers' Class for all creditable service as an officer within the purview of this class, and such other creditable service as authorized hereunder for which he or she has accumulated credit in the retirement system or class within the Florida Retirement System from which he or she transfers. Any member of the Elected State and County Officers' Class may purchase additional retirement credit for service prior to January 1, 1973, as a county solicitor, elected county prosecuting attorney, county judge, judge of a court of record, judge of a criminal or civil court of record, judge of any metropolitan court established pursuant to s. 6, Art. VIII of the State Constitution, judge of a small claims court, or justice of the peace, or for service as a county court judge from January 1, 1973, to October 1, 1974.

(b) To receive additional retirement credit for service within the purview of the Elected State and County Officers' Class as provided authorized in paragraph (a), such member:

1.—~~A serving elected officer shall pay a sum equal to the difference between the amounts derived under subparagraphs 1. and 2. subparagraphs a. and b.:~~

1.a. The total employee and employer contributions actually paid, based on the actual gross salary received and the contribution rates in effect for the period of his or her tenure in office; and

2.b. The total contributions which would have been required at the time the service was rendered for the subclass of elected state officers' service being purchased, based on the actual gross salary received or on a gross salary of \$1,000 per month, whichever is greater, multiplied by the contribution rates required, as follows:

a.(I) The contribution rates in effect at the time the service was rendered for the subclass of elected state officers' service being purchased; or

b.(II) The contribution rates in effect on July 1, 1972, for such service rendered before July 1, 1972, by an elected officer who held an elective office included within the Elected State Officers' Class upon its creation; or

c.(III) The contribution rates in effect for the appropriate subclass on the date of inclusion of the elective office within the Elected State and County Officers' Class, as set forth in subsection (2); or

d.(IV) For service as an elected county officer before July 1, 1981, the contribution rate applicable for the legislative subclass of the Elected State Officers' Class,

plus interest thereon at the rate of 4 percent per year compounded annually each June 30 from the date of such service until July 1, 1975, and at the rate of 6.5 percent per year thereafter until the date of payment.

~~2.—A former elected officer who held office after his or her subclass of the Elected State and County Officers' Class was established, and who opted for membership in another membership class of the Florida Retirement System rather than the Elected State and County Officers' Class, shall pay a sum equal to the difference between the amounts derived under subparagraphs a. and b.:~~

~~a.—The total employee and employer contributions actually paid, based on the actual gross salary received and the contribution rates in effect for the period of his or her tenure in office within the purview of the class; and~~

~~b.—The total contributions which would have been required at the time the service was rendered for the subclass of elected state officers' service being purchased, based on the actual gross salary received or on a gross salary of \$1,000 per month, whichever is greater, multiplied by the contribution rates required, as follows:~~

~~(I)—The contribution rates in effect at the time the service was rendered for the subclass of elected state or county officers' service being purchased; or~~

~~(II)—The contribution rates in effect on July 1, 1972, for such service rendered before July 1, 1972, by an elected officer who held an elective office included within the Elected State Officers' Class upon its creation; or~~

~~(III)—The contribution rates in effect for the appropriate subclass on the date of inclusion of the elective office within the Elected State and County Officers' Class, as set forth in subsection (2); or~~

~~(IV) For service as an elected county officer before July 1, 1981, the contribution rate applicable for the legislative subclass of the Elected State Officers' Class,~~

~~plus interest thereon at the rate of 4 percent per year compounded annually each June 30 from the date of such service until July 1, 1975, and at the rate of 6.5 percent per year thereafter until the date of payment.~~

~~(c) Notwithstanding any provision of this subsection to the contrary, a current or former member of the Elected State and County Officers' Class, or a former an elected state officer as described in paragraph (a), may elect to claim who purchases additional retirement credit in the Elected State and County Officers' Class pursuant to paragraph (a) upon payment of the required during the period from January 1, 1991, to June 30, 1991, shall be required to pay one-half the contributions and interest due the Florida Retirement System Trust Fund, and an equal amount shall be paid by the employer. The current or former employer of such officer may elect to pay any portion of the total required employee and employer contributions and interest due on behalf of such member, provided such payment is made before January 1, 1998. No contributions shall be paid by the employer on behalf of any elected state officer who purchases such retirement credit after June 30, 1991.~~

Section 4. Paragraph (b) of subsection (1) of section 121.053, Florida Statutes, is amended to read:

121.053 Participation in the Elected State and County Officers' Class for retired members.—

(1)

(b) Any retired member of the Florida Retirement System, or any existing system as defined in s. 121.021(2), who, on or after July 1, 1990, is serving in, or is elected or appointed to, an elective office covered by the Elected State and County Officers' Class shall be enrolled in the appropriate subclass of the Elected State and County Officers' Class of the Florida Retirement System, and applicable contributions shall be paid into the Florida Retirement System Trust Fund as provided in s. 121.052(7). Pursuant thereto:

1. Any such retired member shall be eligible to continue to receive retirement benefits as well as compensation for the elected officer service for as long as he or she remains in an elective office covered by the Elected State and County Officers' Class.

2. If any such member serves in an elective office covered by the Elected State and County Officers' Class for a period of at least 8 years, he or she shall be entitled to receive an additional retirement benefit for such elected officer service.

3. Such member shall be entitled to purchase additional retirement credit in the Elected State and County Officers' Class for any postretirement service performed in an elected position eligible for the Elected State and

County Officers' Class prior to July 1, 1990, or in the Regular Class for any postretirement service performed in any other regularly established position prior to July 1, 1991, by paying the applicable Elected State and County Officers' Class or Regular Class employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund. The contribution for postretirement Regular Class service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, shall be the difference between such contribution and the total applicable contribution for the period being claimed, plus interest. The employer of such member may pay the applicable employer contribution in lieu of the member.

4. No creditable service for which credit was received, or which remained unclaimed, at retirement may be claimed or applied toward service credit earned following renewed membership. However, service earned in accordance with the renewed membership provisions ~~for the Regular Class~~ in s. 121.122 may be used in conjunction with creditable service earned under this paragraph, provided applicable vesting requirements and other existing statutory conditions required by this chapter are met.

Section 5. Present paragraphs (f), (g), and (h) of subsection (1) of section 121.055, Florida Statutes, 1996 Supplement, are redesignated as paragraphs (g), (h), and (i), respectively, and a new paragraph (f) is added to that subsection and subsection (2), and paragraphs (e) and (f) of subsection (6) of that section are amended, to read:

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

(1)

(f) Effective July 1, 1997:

1. Any elected state officer eligible for membership in the Elected State and County Officers' Class under s. 121.052(2)(a), (b), or (c) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office or within 6 months after this act becomes a law for serving elected state officers, elect to participate in the Senior Management Service Optional Annuity Program, as provided in subsection (6), in lieu of membership in the Senior Management Service Class.

2. Any elected county officer eligible for membership in the Elected State and County Officers' Class under s. 121.052(2)(d) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office, or within 6 months after this act becomes a law for serving elected county officers, elect to participate in a lifetime monthly annuity program, as provided in subparagraph (b)2., in lieu of membership in the Senior Management Service Class.

(2)(a) Participation in this class shall cease when the member terminates employment in an eligible position. Once a position is designated as eligible for inclusion in the class, that position shall not be removed from the class unless the duties and responsibilities of the position change substantially and therefore no longer meet the requirements provided in this section for participation in the class, except as provided in paragraph (b).

(b) Effective July 1, 1997, each local agency employer may between July 1, 1997 and December 31, 1997, reassess its designation of positions for inclusion in the Senior Management Service Class as provided in paragraph (b) of subsection (1), and may request removal from the class of any such positions that it deems appropriate. Such removal of any previously designated positions shall be effective on the first day of the month following written notification of removal to the division prior to January 1, 1998.

(6)

(e)1. Benefits shall be payable under the Senior Management Service Optional Annuity Program only to participants in the program or their beneficiaries, and such benefits shall be paid by the designated company in accordance with the terms of the annuity contract or contracts applicable to the participant. Benefits funded by employer contributions shall be payable only as a lifetime annuity to the participant, his beneficiary, or his estate, except for:

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

b. A cash-out of a de minimis account upon the request of a former participant who has been terminated for a minimum of 6 months from the employment that entitled him to Optional Retirement Program participation. A de minimis account is an account with a provider company containing employer contributions and accumulated earnings of not more than \$3,500 made under the provisions of this chapter. Such cash-out must be a complete liquidation of the account balance with that company and is subject to the provisions of the Internal Revenue Code.

2. The benefits payable to any person under the Senior Management Service Optional Annuity Program, and any contribution accumulated under such program, shall not be subject to assignment, execution, or attachment or to any legal process whatsoever.

(f)1. The Senior Management Service Optional Annuity Program authorized by this section shall be administered by the Division of Retirement. The division shall designate one or more provider companies from which annuity contracts may be purchased under the program and shall approve the form and content of the contracts.

2. Effective July 1, 1997, the State Board of Administration shall review and make recommendations to the division on the acceptability of all investment products proposed by provider companies of the optional annuity program before such products are offered through annuity contracts to the participants and may advise the division of any changes deemed necessary

to ensure that the optional annuity program offers an acceptable mix of investment products. The division shall make the final determination as to whether an investment product will be approved for the program.

3.2- The provisions of each contract applicable to a participant in the Senior Management Service Optional Annuity Program shall be contained in a written program description which shall include a report of pertinent financial and actuarial information on the solvency and actuarial soundness of the program and the benefits applicable to the participant. Such description shall be furnished by the company or companies to each participant in the program and to the division upon commencement of participation in the program and annually thereafter.

4.3- The division shall ensure that each participant in the Senior Management Service Optional Annuity Program is provided an accounting of the total contribution and the annual contribution made by and on behalf of such participants.

Section 6. The current or former employer of the member claiming service credit as provided in section 121.052(5)(c), Florida Statutes, may elect to pay any portion of the required contributions provided such payment is made before January 1, 1998. This section expires January 1, 1998.

Section 7. Effective July 1, 1998, subsection (39) of section 121.021, Florida Statutes, 1996 Supplement, is amended, and subsection (43) is added to said section, to read:

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

(39)(a) “Termination” occurs, except as provided in paragraph (b), when a member ceases all employment relationships with employers under this system, as defined in subsection (10), but in the event a member should be employed by any such employer within the next calendar month, termination shall be deemed not to have occurred. A leave of absence shall constitute a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination for a member, if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The division may require other evidence of termination as it deems necessary.

(b) “Termination” for a member electing to participate under the Deferred Retirement Option Program occurs when the Deferred Retirement Option Program participant ceases all employment relationships with employers under this system in accordance with s. 121.091(13), but in the event the Deferred Retirement Option Program participant should be employed by any such employer within the next calendar month, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)5.b. A leave of absence shall constitute a continuation of the employment relationship.

(43) "DROP participant" means any member who elects to retire and participate in the Deferred Retirement Option Program as provided in s. 121.091(13).

Section 8. Effective July 1, 1998, section 121.091, Florida Statutes, 1996 Supplement, is amended to read:

121.091 Benefits payable under the system.—No benefits shall be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the division.

(1) NORMAL RETIREMENT BENEFIT.—Upon attaining his or her normal retirement date, the member, upon application to the administrator, shall receive a monthly benefit which shall begin to accrue on the first day of the month of retirement and be payable on the last day of that month and each month thereafter during his or her lifetime. The amount of monthly benefit shall be determined as the product of A and B, subject to the adjustment of C, if applicable, when:

(a) A is 1.60 percent of the member's average monthly compensation, up to normal retirement age. The first year after normal retirement age, A is 1.63 percent of the member's average monthly compensation. The second year after normal retirement age, A is 1.65 percent of the member's average monthly compensation. The third year after normal retirement age, A is 1.68 percent of the member's average monthly compensation. A shall not exceed 1.68 percent of the member's average monthly compensation, except that, for all creditable years of special risk service, A is:

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

2. Three percent of the member's average monthly compensation for all creditable years after September 30, 1974, and before October 1, 1978;

3. Two percent of the member's average monthly compensation for all creditable years after September 30, 1978, and before January 1, 1989;

4. Two and two-tenths percent of the member's average monthly compensation for all creditable years after December 31, 1988, and before January 1, 1990;

5. Two and four-tenths percent of the member's average monthly compensation for all creditable years after December 31, 1989, and before January 1, 1991;

6. Two and six-tenths percent of the member's average monthly compensation for all creditable years after December 31, 1990, and before January 1, 1992;

7. Two and eight-tenths percent of the member's average monthly compensation for all creditable years after December 31, 1991, and before January 1, 1993; and

8. Three percent of the member's average monthly compensation for all creditable years after December 31, 1992;

however, the normal retirement benefit, including any past or additional retirement credit, may not exceed 100 percent of the average final compensation;

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

(c) C is the normal retirement benefit credit brought forward as of November 30, 1970, by a former member of an existing system. Such normal retirement benefit credit shall be determined as the product of A and B when A is the percentage of average final compensation which the member would have been eligible to receive if the member had attained his or her normal retirement date as of November 30, 1970, all in accordance with the existing system under which the member is covered on November 30, 1970, and B is average monthly compensation as defined in s. 121.021(25). However, any member of an existing retirement system who is eligible to retire and who does retire, become disabled, or die prior to April 15, 1971, may have his or her retirement benefits calculated on the basis of the best 5 of the last 10 years of service.

(2) **BENEFITS PAYABLE FOR DUAL NORMAL RETIREMENT AGES.**—In the event a member accumulates retirement benefits to commence at different normal retirement ages by virtue of having performed duties for an employer which would entitle him or her to benefits as both a regular member and special risk member, the amount of benefits payable shall be computed separately with respect to each such age and the sum of such computed amounts shall be paid as provided in this section.

(3) **EARLY RETIREMENT BENEFIT.**—Upon retirement on his or her early retirement date, the member shall receive an immediate monthly benefit which shall begin to accrue on the first day of the month of the retirement date and be payable on the last day of that month and each month thereafter during his or her lifetime. The amount of each monthly payment shall be computed in the same manner as for a normal retirement benefit, in accordance with subsection (1), but based on average monthly compensation and creditable service as of the member's early retirement date. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which the early retirement precedes the normal retirement date of age 62 for a regular member or a member of the Elected State and County Officers' Class, and age 55 for a special risk member or age 52 if a special risk member has completed 25 years of creditable service in accordance with s. 121.021(29)(c)3. However, if the employment of a member is terminated by reason of death subsequent to the completion of 20 years of creditable service, the monthly benefit payable to the member's beneficiary shall be calculated in accordance with subsection (1), but based on average monthly compensation and creditable service as of the date of death. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which death precedes the normal retirement date specified above or the date on which the member would have attained

30 years of creditable service had he or she survived and continued his or her employment, whichever provides a higher benefit.

(4) **DISABILITY RETIREMENT BENEFIT.—**

(a) **Disability retirement date.**—A member who becomes totally and permanently disabled, as defined in paragraph (b), after completing 5 years of creditable service, or a member who becomes totally and permanently disabled in the line of duty regardless of service, shall be entitled to a monthly disability benefit; except that any member with less than 5 years of creditable service on July 1, 1980, or any person who becomes a member of the Florida Retirement System on or after such date must have completed 10 years of creditable service prior to becoming totally and permanently disabled in order to receive disability retirement benefits for any disability which occurs other than in the line of duty. But in the event that any member employed on July 1, 1980, with less than 5 years of creditable service as of that date, becomes totally and permanently disabled after completing 5 years of creditable service and is found not to have attained fully insured status for benefits under the federal Social Security Act, such member shall be entitled to a monthly disability benefit. The disability retirement date shall be the first day of the month which coincides with or next follows the date the administrator approves payment of disability retirement benefits to the member.

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

(c) **Proof of disability.**—The administrator, before approving payment of any disability retirement benefit, shall require proof that the member is totally and permanently disabled as provided herein, which proof shall include the certification of the member's total and permanent disability by two licensed physicians of the state and such other evidence of disability as the administrator may require, including reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment.

(d) **Disability retirement benefit.**—Upon the retirement of a member on his or her disability retirement date, the member shall receive a monthly benefit which shall begin to accrue on the first day of the month of disability retirement and shall be payable on the last day of that month and each month thereafter during his or her lifetime and continued disability. The amount of each monthly payment shall be computed in the same manner as for a normal retirement benefit, in accordance with subsection (1), but based on disability option actuarial equivalency tables and the average monthly compensation and creditable service of the member as of the disability retirement date, subject to the following conditions:

1. If the member's disability occurred in the line of duty, the monthly Option 1 benefit shall not be less than 42 percent of average monthly compensation as of the disability retirement date; or

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

(e) Recovery from disability.—The administrator may require periodic reexaminations at the expense of the retirement fund, and:

1. If the administrator finds that a member who is receiving disability benefits is, at any time prior to his or her normal retirement date, no longer disabled, the administrator shall direct that the benefits be discontinued. The decision of the administrator on this question shall be final and binding.

2. If the member, described in subparagraph 1., who recovers from such disability prior to the normal retirement date does not reenter the employ of an employer and had not completed 10 years of creditable service as of the disability retirement date, he or she shall be entitled to the excess, if any, of his or her accumulated contributions over the total disability benefits received up to the date of recovery.

3. If the member, described in subparagraph 1., who recovers from such disability prior to the normal retirement date does not reenter the employ of an employer but had completed 10 or more years of creditable service as of the disability retirement date, he or she may elect to receive:

a. The excess, if any, of his or her accumulated contributions over the total disability benefits received up to the date of recovery, or

b. A deferred benefit commencing on the last day of the month of the normal retirement date which shall be payable on the last day of the month thereafter during his or her lifetime. The amount of such monthly benefit shall be computed in the same manner as for a normal retirement benefit, in accordance with subsection (1), but based on average monthly compensation and creditable service as of the member's disability retirement date.

4. If the member recovers from disability and reenters employment of an employer within 6 months after recovery, the member's service will be deemed to have been continuous, but the period beginning with the first month for which he or she received a disability benefit payment and ending with the date he or she reentered employment will not be considered as creditable service for the purpose of computing benefits except as provided in subparagraph 5. The term "accumulated contributions" for such member wherever used in this section after such recovery means the excess of a member's accumulated contributions as of the disability retirement date over total disability benefits received under paragraph (d).

5. If the member recovers from disability, has his or her disability benefit terminated, reenters covered employment, and is continuously employed for a minimum of 1 year of creditable service, he or she may claim as creditable service the months during which he or she was receiving a disability benefit, upon payment of the required contributions. Contributions shall equal the total required employee and employer contribution rate during the period the retiree received retirement benefits, multiplied times his or her rate of monthly compensation prior to the commencement of disability retirement

for each month of the period claimed, plus 4 percent interest until July 1, 1975, and 6.5 percent interest thereafter on such contributions, compounded annually each June 30 to the date of payment. If the member does not claim credit for all of the months he or she received disability benefits, the months claimed must be the most recent months of retirement.

6. If after recovery of disability and reentry into covered employment, the member again becomes disabled and is again approved for disability retirement, the Option 1 monthly retirement benefit shall not be less than the Option 1 monthly benefit calculated at the time of the previous disability, plus any cost of living increases up to the time the disability benefit was terminated upon his or her reentry into covered employment.

(f) Nonadmissible causes of disability.—A member shall not be entitled to receive any disability retirement benefit if the disability is a result of any of the following:

1. Injury or disease sustained by the member while willfully participating in a riot, civil insurrection, or other act of violence or while committing a felony;
2. Injury or disease sustained by the member after his or her employment has terminated; or
3. Intentional, self-inflicted injury.

(g) Disability retirement of justice or judge by order of Supreme Court.—

1. If a member is a justice of the Supreme Court, judge of a district court of appeal, circuit judge, or judge of a county court who has served for 10 years or more as an elected constitutional judicial officer, including service as a judicial officer in any court abolished pursuant to Art. V of the State Constitution, and who is retired for disability by order of the Supreme Court upon recommendation of the Judicial Qualifications Commission pursuant to the provisions of Art. V of the State Constitution, the member's Option 1 monthly benefit as provided in subparagraph (6)(a)1. shall not be less than two-thirds of his or her monthly compensation as of the member's disability retirement date. Such a member may alternatively elect to receive a disability retirement benefit under any other option as provided in paragraph (6)(a).

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

(5) TERMINATION BENEFITS.—

(a) A member whose employment is terminated for any reason other than death or retirement prior to the completion of 10 years of creditable service shall be entitled to the return of his or her accumulated contributions as of the date of termination.

(b) A member whose employment is terminated for any reason other than death or retirement after the completion of 10 years of creditable service may elect to receive a deferred monthly benefit which shall begin to accrue on the first day of the month of normal or early retirement and shall be payable on the last day of that month and each month thereafter during his or her lifetime. The amount of monthly benefit shall be computed in the same manner as for a normal retirement benefit in accordance with subsection (1) or early retirement benefit in accordance with s. 121.021(30), but based on average monthly compensation and creditable service as of the date of termination.

(c) In lieu of the deferred monthly benefit provided in paragraph (b), the terminated member may elect to receive a lump-sum amount equal to his or her accumulated contributions as of the date of termination.

(d) If any retired member dies without having received in benefit payments an amount equal to his or her accumulated contributions, there shall be payable to his or her designated beneficiary an amount equal to the excess, if any, of the member's accumulated contributions over the total monthly payments made to the member prior to the date of death.

(e) A member shall be deemed a terminated member when termination of employment has occurred as provided in s. 121.021(39).

(f) Any member who has been found guilty by a verdict of a jury, or by the court trying the case without a jury, of committing, aiding, or abetting any embezzlement or theft from his or her employer, bribery in connection with the employment, or other felony specified in chapter 838, except ss. 838.15 and 838.16, committed prior to retirement, or who has entered a plea of guilty or of nolo contendere to such crime, or any member whose employment is terminated by reason of the member's admitted commitment, aiding, or abetting of an embezzlement or theft from his or her employer, bribery, or other felony specified in chapter 838, except ss. 838.15 and 838.16, shall forfeit all rights and benefits under this chapter, except the return of his or her accumulated contributions as of the date of termination.

(g) Any elected official who is convicted by the Senate of an impeachable offense shall forfeit all rights and benefits under this chapter, except the return of his or her accumulated contributions as of the date of the conviction.

(h) Any member who, prior to retirement, is adjudged by a court of competent jurisdiction to have violated any state law against strikes by public employees, or who has been found guilty by such court of violating any state law prohibiting strikes by public employees, shall forfeit all rights and benefits under this chapter, except the return of his or her accumulated contributions as of the date of the conviction.

(i) Any beneficiary who by a verdict of a jury or by the court trying the case without a jury is found guilty, or who has entered a plea of guilty or nolo contendere, of unlawfully and intentionally killing or procuring the death of the member forfeits all rights to the deceased member's benefits under this chapter, and the benefits will be paid as if such beneficiary had predeceased the decedent. Benefits may not be paid by the division pending final resolution of such charges against the beneficiary.

(6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND DISABILITY RETIREMENT BENEFITS.—

(a) Prior to the receipt of the first monthly retirement payment, a member shall elect to receive the retirement benefits to which he or she is entitled under subsection (1), subsection (2), subsection (3), or subsection (4) in accordance with one of the following options:

1. The maximum retirement benefit payable to the member during his or her lifetime.

2. A decreased retirement benefit payable to the member during his or her lifetime and, in the event of his or her death within a period of 10 years after retirement, the same monthly amount payable for the balance of such 10-year period to his or her beneficiary or, in case the beneficiary is deceased, in accordance with subsection (8) as though no beneficiary had been named.

3. A decreased retirement benefit payable during the joint lifetime of both the member and his or her joint annuitant and which, after the death of either, shall continue during the lifetime of the survivor in the same amount, subject to the provisions of subsection (12).

4. A decreased retirement benefit payable during the joint lifetime of the member and his or her joint annuitant and which, after the death of either, shall continue during the lifetime of the survivor in an amount equal to $66\frac{2}{3}$ percent of the amount that was payable during the joint lifetime of the member and his or her joint annuitant, subject to the provisions of subsection (12).

The spouse of any member who elects to receive the benefit provided under subparagraph 1. or subparagraph 2. shall be notified of and shall acknowledge any such election.

(b) The benefit payable under any option stated above shall be the actuarial equivalent, based on tables adopted by the administrator for this purpose, of the amount to which the member was otherwise entitled.

(c) A member who elects the option in subparagraph (a)2. shall, in accordance with subsection (8), designate one or more persons to receive the benefits payable in the event of his or her death. Such persons shall be the beneficiaries of the member. The member may also designate one or more contingent beneficiaries to receive any benefits remaining upon the death of the primary beneficiary.

(d) A member who elects the option in subparagraph (a)3. or subparagraph (a)4. shall, on a form provided for that purpose, designate a joint annuitant to receive the benefits which continue to be payable upon the death of the member. After benefits have commenced under the option in subparagraph (a)3. or subparagraph (a)4., a retired member may change his or her designation of a joint annuitant only twice. If such a retired member desires to change his or her designation of a joint annuitant, he or she shall file with the division a notarized "change of joint annuitant" form and shall notify the former joint annuitant in writing of such change. Effective the first day of the next month following ~~Upon receipt by the division of~~ a completed change of joint annuitant form, the division shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. The consent of a retired member's first designated joint annuitant to any such change shall not be required. However, if the member dies before the effective date of the request for change of joint annuitant, the requested change shall be void, and survivor benefits, if any, shall be paid as if no request had been made.

(e) The election of an option shall be null and void if the member dies before the effective date of retirement.

(f) A member who elects to receive benefits under the option in subparagraph (a)3. may designate one or more qualified persons, either a spouse or other dependent, as his or her joint annuitant to receive the benefits after the member's death in whatever proportion he or she so assigns to each person named as joint annuitant. The division shall adopt appropriate actuarial tables and calculations necessary to ensure that the benefit paid is the actuarial equivalent of the benefit to which the member is otherwise entitled under the option in subparagraph (a)1.

(g) Upon the death of a retired member or beneficiary receiving monthly benefits under this chapter, the monthly benefits shall be paid through the last day of the month of death and shall terminate, or be adjusted, if applicable, as of that date in accordance with the optional form of benefit selected at the time of retirement.

(h) The option selected or determined for payment of benefits as provided in this section shall be final and irrevocable at the time a benefit payment is cashed or deposited or credited to the Deferred Retirement Option Program as provided in subsection (13).

(7) DEATH BENEFITS.—

(a) If the employment of a member is terminated by reason of his or her death prior to the completion of 10 years of creditable service, there shall be payable to his or her designated beneficiary the member's accumulated contributions.

(b) If the employment of an active member who may or may not have applied for retirement is terminated by reason of his or her death subsequent to the completion of 10 years of creditable service and prior to his or her effective date of retirement, if established, it shall be assumed that the

member retired as of the date of death in accordance with subsection (1) if eligible for normal retirement benefits, subsection (2) if eligible for benefits payable for dual normal retirement, or subsection (3) if eligible for early retirement benefits. Benefits payable to the designated beneficiary shall be as follows:

1. For a beneficiary who qualifies as a joint annuitant, the optional form of payment provided in accordance with subparagraph (6)(a)3. shall be paid for the joint annuitant's lifetime.

2. For a beneficiary who does not qualify as a joint annuitant, no continuing monthly benefit shall be paid and the beneficiary shall be entitled only to the return of the member's personal contributions.

(c) If a retiring member dies on or after the effective date of retirement, but prior to a benefit payment being cashed or deposited or credited to the Deferred Retirement Option Program, benefits shall be paid as follows:

1. For a designated beneficiary who qualifies as a joint annuitant, benefits shall be paid in the optional form of payment provided in subparagraph (6)(a)3. for the joint annuitant's lifetime or, if the member chose the optional form of payment provided in subparagraph (6)(a)2., the joint annuitant may select the form provided in either subparagraph (6)(a)2. or subparagraph (6)(a)3.

2. For a designated beneficiary who does not qualify as a joint annuitant, any benefits payable shall be paid as provided in the option selected by the member; or if the member has not selected an option, benefits shall be paid in the optional form of payment provided in subparagraph (6)(a)1.

~~(d)~~ Notwithstanding any other provision in this chapter to the contrary, with the exception of the Deferred Retirement Option Program as provided in subsection (13):

1. The surviving spouse of any member killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of death for the rest of the surviving spouse's lifetime. Benefits provided by this paragraph shall supersede any other distribution that may have been provided by the member's designation of beneficiary.

2. If the surviving spouse of a member killed in the line of duty dies, the monthly payments which would have been payable to such surviving spouse had such surviving spouse lived shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child.

3. If a member killed in the line of duty leaves no surviving spouse but is survived by a child or children under 18 years of age, the benefits provided by subparagraph 1., normally payable to a surviving spouse, shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child.

4. The surviving spouse of a member whose benefit terminated because of remarriage shall have the benefit reinstated beginning July 1, 1993, at an amount that would have been payable had the benefit not been terminated.

(e) The surviving spouse or other dependent of any member, except a member who participated in the Deferred Retirement Option Program, whose employment is terminated by death shall, upon application to the administrator, be permitted to pay the required contributions for any service performed by the member which could have been claimed by the member at the time of his or her death. Such service shall be added to the creditable service of the member and shall be used in the calculation of any benefits which may be payable to the surviving spouse or other surviving dependent.

(f) Notwithstanding any other provisions in this chapter to the contrary, if any member who has accumulated at least 10 years of creditable service dies and the surviving spouse receives a refund of the accumulated contributions made to the retirement trust fund, such spouse may pay to the Division of Retirement an amount equal to the sum of the amount of the deceased member's accumulated contributions previously refunded plus interest at 4 percent compounded annually each June 30 from the date of refund until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until full payment is made, and receive the monthly retirement benefit as provided in paragraph (b).

(g) The designated beneficiary who is the surviving spouse or other dependent of a member whose employment is terminated by death subsequent to the completion of 10 years of creditable service but prior to actual retirement may elect to receive a deferred monthly benefit as if the member had lived and had elected a deferred monthly benefit, as provided in paragraph (5)(b), calculated on the basis of the average final compensation and creditable service of the member at his or her death and the age the member would have attained on the commencement date of the deferred benefit elected by the beneficiary, paid in accordance with option 3 of paragraph (6)(a).

(8) DESIGNATION OF BENEFICIARIES.—Each member may, on a form provided for that purpose, signed and filed with the division, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary who shall receive the benefits, if any, which may be payable in the event of the member's death pursuant to the provisions of this chapter. If no beneficiary is named in the manner provided above, or if no beneficiary designated by the member survives the member, the beneficiary shall be the spouse of the deceased, if living. If the member's spouse is not alive at his or her death, the beneficiary shall be the living children of the member. If no children survive, the beneficiary shall be the member's father or mother, if living; otherwise, the beneficiary shall be the member's estate. The beneficiary most recently designated by a member on a form or letter filed with the division shall be the beneficiary entitled to any benefits payable at the time of the member's death, except benefits shall be paid as provided in paragraph (7)(d) when death occurs in the line of duty.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(a) Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be employed by an employer that does not participate in a state-administered retirement system and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable to that person.

(b)1. Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his or her employer without any limitations, except that a person may not receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

2. Any person to whom the limitation in subparagraph 1. applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System before completion of the 12-month limitation period shall give timely notice of this fact in writing to the employer and to the division and shall have his or her retirement benefits suspended for the balance of the 12-month limitation period. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

3. A district school board may reemploy a retired member as a substitute or hourly teacher, teacher aide, transportation assistant, bus driver, or food service worker on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers, teacher aides, transportation assistants, bus drivers, or food service workers are subject to the retirement contribution required by subparagraph 7. Reemployment of a retired member as a substitute or hourly teacher, teacher aide, transportation assistant, bus driver, or food service worker is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in

violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

4. A community college board of trustees may reemploy a retired member as an adjunct instructor, that is, an instructor who is noncontractual and part-time, or as a participant in a phased retirement program within the State Community College System, after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the retirement contribution required in subparagraph 7. A retired member may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

5. The State University System may reemploy a retired member as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in subparagraph 7., as appropriate. A retired member may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than

780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

6. The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a retired member as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School for the Deaf and the Blind reemploying such teachers, residential instructors, or nurses is subject to the retirement contribution required by subparagraph 7. Reemployment of a retired member as a substitute teacher, substitute residential instructor, or substitute nurse is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

7. The employment by an employer of any retiree or DROP participant of any state-administered retirement system shall have no effect on the

average final compensation or years of creditable service of the retiree or DROP participant. Prior to July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who has been retired under any state-administered retirement program, the employer shall pay retirement contributions in an amount equal to the unfunded actuarial ~~accrued~~ liability portion of the employer contribution which would be required for regular members of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for retirees with renewed membership or subsection (13) for DROP participants.

8. Any person who has previously retired and who is holding an elective public office or an appointment to an elective public office eligible for the Elected State and County Officers' Class on or after July 1, 1990, shall be enrolled in the Florida Retirement System as provided in s. 121.053(1)(b) or, if holding an elective public office that does not qualify for the Elected State and County Officers' Class on or after July 1, 1991, shall be enrolled in the Florida Retirement System as provided in s. 121.122, and shall continue to receive retirement benefits as well as compensation for the elected officer's service for as long as he or she remains in elective office. However, any retired member who served in an elective office prior to July 1, 1990, suspended his or her retirement benefit, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have his or her retirement benefit recalculated to include the additional service and compensation earned.

9. Any person who is holding an elective public office which is covered by the Florida Retirement System and who is concurrently employed in non-elected covered employment may elect to retire while continuing employment in the elective public office, provided that he or she shall be required to terminate his or her nonelected covered employment. Any person who exercises this election shall receive his or her retirement benefits in addition to the compensation of the elective office without regard to the time limitations otherwise provided in this subsection. No person who seeks to exercise the provisions of this subparagraph, as the same existed prior to May 3, 1984, shall be deemed to be retired under those provisions, unless such person is eligible to retire under the provisions of this subparagraph, as amended by chapter 84-11, Laws of Florida.

10. The limitations of this paragraph apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

11. From July 1, 1997, through December 31, 1998, notwithstanding the limitations of this subsection, except that any retiree who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits, any retiree of the Florida Retirement System may be reemployed by a covered employer during the 2nd through 12th months of the reemployment limitation period without suspending his or her retirement benefits, provided that the reemployment is for the sole purpose of working on the technical aspects of correcting or replacing the computer systems and programs necessary to resolve the year 2000 date problem for computing which confronts all public employers covered by the Florida Retirement System.

(10) FUTURE BENEFITS BASED ON ACTUARIAL DATA.—It is the intent of the Legislature that future benefit increases enacted into law in this chapter shall be financed concurrently by increased contributions or other adequate funding, and such funding shall be based on sound actuarial data as developed by the actuary or state retirement actuary, as provided in ss. 121.021(6) and 121.192.

(11) A member who becomes eligible to retire and has accumulated the maximum benefit of 100 percent of average final compensation may continue in active service, and, if upon the member's retirement the member elects to receive a retirement compensation pursuant to subsection (2), subsection (6), or subsection (7), the actuarial equivalent percentage factor applicable to the age of such member at the time the member reached the maximum benefit and to the age, at that time, of the member's spouse shall determine the amount of benefits to be paid.

(12) SPECIAL PROVISIONS FOR PAYMENT OF CERTAIN SURVIVOR BENEFITS.—Notwithstanding any provision of this chapter to the contrary, for members with an effective date of retirement, or date of death if prior to retirement, on or after January 1, 1996, the named joint annuitant, as defined in s. 121.021(28)(b), who is eligible to receive benefits under subparagraph (6)(a)3. or subparagraph (6)(a)4., shall receive the maximum monthly retirement benefit that would have been payable to the member under subparagraph (6)(a)1.; however, payment of such benefit shall cease the month the joint annuitant attains age 25 unless such joint annuitant is disabled and incapable of self-support, in which case, benefits shall cease when the joint annuitant is no longer disabled. The administrator may require proof of disability or continued disability in the same manner as is provided for a member seeking or receiving a disability retirement benefit under subsection (4).

(13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is a program under which an eligible member of the Florida Retirement System may elect to participate, deferring receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer. The deferred monthly benefits shall accrue in the System Trust Fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Employment in the DROP does not guarantee employment for the specified period of DROP.

(a) Eligibility of member to participate in the DROP.—All Florida Retirement System members are eligible to elect participation in the DROP provided that:

1. Election to participate is made within 12 months following the date on which the member first reaches normal retirement date or age, or for a member who first reached normal retirement date or age prior to the effective date of this section, election to participate is made within 12 months of

the effective date of this section. A member who fails to make an election within such 12-month limitation period shall forfeit all rights to participate in the DROP. The member shall advise his employer and the division in writing of the date on which the DROP shall begin. Such beginning date may be subsequent to the 12-month election period but must be within the 60-month limitation period as provided in subparagraph (b)1.

2. The retiring member's employer, or employers if dually employed, shall acknowledge in writing to the division the date the member's participation in the DROP begins and the date the member's employment and DROP participation will terminate.

3. Employment of a participant by additional Florida Retirement System employers subsequent to the commencement of participation in the DROP shall be permissible provided such employers acknowledge in writing a DROP termination date no later than the participant's existing termination date or the 60-month limitation period as provided in subparagraph (b)1.

(b) Participation in the DROP.—

1. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of 60 months following the date on which the member first reaches normal retirement age or date, including a member who first reaches normal retirement age or date prior to the effective date of this section. Any member who has exceeded the 60-month limitation shall not be eligible to participate in the DROP.

2. Upon deciding to participate in the DROP, the member shall submit, on forms required by the division:

a. A written election to participate in the DROP;

b. Selection of the DROP participation and termination dates, which satisfy the limitations stated in paragraph (a) and subparagraph 1. Such termination date shall be in a binding letter of resignation with the employer, establishing a deferred termination date. The member may change the termination date within the limitations of subparagraph 1., but only with the written approval of his employer;

c. A properly completed DROP application for service retirement as provided in this section; and

d. Any other information required by the division.

3. The DROP participant shall be a retiree under the Florida Retirement System for all purposes, except for paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053, and 121.122.

4. A reemployed retiree with renewed membership is not eligible for DROP participation.

5. Elected officers shall be eligible to participate in the DROP subject to the following:

a. An elected or a nonelected participant may run for a term of office while participating in DROP and, if elected, extend the DROP termination date accordingly, except, however, if such additional term of office exceeds the 60-month limitation established in subparagraph 1., and the officer does not resign from office within such 60-month limitation, the retirement and the participant's DROP shall be null and void as provided in subparagraph (c)4.d.

b. An elected officer who is dually employed and elects to participate in DROP shall be required to satisfy the definition of termination within the 60-month limitation period as provided in subparagraph 1. for the nonelected position and may continue employment as an elected officer as provided in s. 121.053. The elected officer will be enrolled as a renewed member in the Elected State and County Officers' Class or the Regular Class, as provided in ss. 121.053 and 121.22, on the first day of the month after termination of employment in the nonelected position and termination of DROP. Distribution of the DROP benefits shall be made as provided in paragraph (c).

(c) Benefits payable under the DROP.—

1. Effective with the date of DROP participation, the member's initial normal monthly benefit, including creditable service and average final compensation, and the effective date of retirement shall be fixed. Such retirement benefit, the annual cost of living adjustments provided in s. 121.101, and interest shall accrue monthly in the System Trust Fund. Such interest shall accrue at an effective annual rate of 6.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death.

2. The effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in the DROP.

3. Normal retirement benefits and interest thereon shall continue to accrue in the DROP until the established termination date of the DROP, or until the participant terminates employment or dies prior to such date. Although individual DROP accounts shall not be established, a separate accounting of each participant's accrued benefits under the DROP shall be calculated and provided to participants annually.

4. At the conclusion of the participant's DROP, the division shall distribute the participant's total accumulated DROP benefits, subject to the following provisions:

a. The division shall receive verification by the participant's employer or employers that such participant has terminated employment as provided in s. 121.021(39)(b).

b. The terminated DROP participant or if deceased, such participant's named beneficiary, shall elect on forms provided by the division to receive payment of the DROP benefits in accordance with one of the options listed

below. For a participant or beneficiary who fails to elect a method of payment within 60 days of termination of the DROP, the division will pay a lump sum as provided in (I).

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

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

(III) Partial lump sum.—A portion of the accrued DROP benefits shall be paid to the DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.

c. The form of payment selected by the DROP participant or surviving beneficiary complies with the minimum distribution requirements of the Internal Revenue Code and payments begin no later than the date on which the participant reaches age 70 years and 6 months.

d. For a DROP participant who fails to terminate employment as defined in s. 121.021(39)(b), the member shall be deemed not to be retired and the DROP election shall be null and void. Florida Retirement System membership shall be reestablished retroactively to the date of the commencement of the DROP, and the employer shall be required to pay to the System Trust Fund the difference between the DROP contributions paid in paragraph (i) and the contributions required for the applicable Florida Retirement System class of membership during the period the member participated in the DROP, plus 6.5 percent interest compounded annually.

5. The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever, except for qualified domestic relations orders by a court of competent jurisdiction, income deduction orders as provided in s. 61.1301, and federal income tax levies.

6. DROP participants shall not be eligible for disability retirement benefits as provided in subsection (4).

(d) Death benefits under the DROP.—

1. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in sub-subparagraph (c)4.b.

2. The normal retirement benefit accrued to the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant.

3. Eligibility to participate in the DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, Florida Retirement System benefits shall be paid in accordance with subparagraph (7)(c)1. or subparagraph 2.

4. A DROP participants' survivors shall not be eligible to receive Florida Retirement System death benefits as provided in paragraph (7)(d).

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

(f) Retiree health insurance subsidy.—DROP participants are not eligible to apply for the retiree health insurance subsidy payments as provided in s. 112.363 until such participants have terminated employment and participation in the DROP.

(g) Renewed membership.—DROP participants shall not be eligible for renewed membership in the Florida Retirement System under ss. 121.053 and 121.122 until termination of employment is effectuated as provided in s. 121.021(39)(b).

(h) Employment limitation after DROP participation.—Upon satisfying the definition of termination of employment as provided in s. 121.021(39)(b) DROP participants shall be subject to such reemployment limitations as other retirees. Reemployment restrictions applicable to retirees as provided in subsection (9) shall not apply to DROP participants until their employment and participation in the DROP are terminated.

(i) Contributions.—

1. All employers paying the salary of a DROP participant filling a regularly established position shall contribute 11.56 percent of such participant's gross compensation, which shall constitute the entire employer DROP contribution with respect to such participant. Such contributions, payable to the System Trust Fund in the same manner as required in s. 121.071, shall be made as appropriate for each pay period and are in addition to contributions required for Social Security and the Retiree Health Insurance Subsidy Trust Fund. Such employer, Social Security, and health insurance subsidy contributions are not included in the DROP.

2. The employer shall, in addition to subparagraph 1., also withhold one-half of the entire Social Security contribution required for the participant. Contributions for Social Security by each participant and each employer, in the amount required for Social Security coverage as now or hereafter pro-

vided by the federal Social Security Act, shall be in addition to contributions specified in subparagraph 1.

3. All employers paying the salary of a DROP participant filling a regularly established position shall contribute 0.66 percent of such participant's gross compensation, which shall constitute the employer's health insurance subsidy contribution with respect to such participant. Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

(j) Forfeiture of Retirement Benefits.—Nothing in this section shall be construed to remove DROP participants from the scope of Article II, s. 8(d), State Constitution, s. 112.3173, and paragraph (5)(f) of this section. DROP participants who commit a specified felony offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

(k) Administration of Program.—The division shall make such rules as are necessary for the effective and efficient administration of this subsection. The division shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.

Section 9. Effective July 1, 1998, there is hereby appropriated to the Division of Retirement from the Florida Retirement System Trust Fund the sum of \$813,923 and 14 positions for the purposes of advanced planning and systems development associated with development of the Deferred Retirement Option Plan.

Section 10. Effective July 1, 1998, and contingent upon the Division of Retirement receiving a favorable determination letter and a favorable private letter ruling, hereinafter referred to as favorable letters, from the Internal Revenue Service, as provided below prior to the end of the 1998 legislative session. The division shall request from the Internal Revenue Service, within 90 days of the passage of this act:

(1) A written determination letter stating that the Florida Retirement System, as amended to include the DROP, continues to be a facially qualified plan; and

(2) A private letter ruling stating:

(a) That the Florida Retirement System, as amended to include the DROP, is not a "defined contribution plan" as defined in ss. 414(i) and 415(k)(1) of the Internal Revenue Code, is not subject to the separate limitations contained within s. 415(c) and (e) of the Internal Revenue Code, and is not a "hybrid plan" as defined in s. 414(k) of the Internal Revenue Code;

(b) That the Florida Retirement System, as amended to include the DROP, is not a "cash or deferred arrangement" within the meaning of s. 401(k) of the Internal Revenue Code; and

(c) That the monthly retirement benefits paid into the DROP are not deemed to be constructive receipt of income under s. 402(a) of the Internal

Revenue Code and shall not be taxable until actual distribution to the retiree.

The division shall notify the Speaker of the House of Representatives and the President of the Senate within 30 days of receipt of the favorable or unfavorable letters. If no favorable letters are received by July 1, 1998, sections 7, 8, 9, and this section shall take effect January 1, 1999, provided the division receives the favorable letters prior to such date. In the event favorable letters are not received, sections 7, 8, 9, and this section shall not take effect.

Section 11. Section 121.1115, Florida Statutes, 1996 Supplement, is amended to read:

121.1115 Purchase of retirement credit for out-of-state and federal service.—Effective January 1, 1995, a member of the Florida Retirement System may purchase creditable service for periods of public employment in another state and receive creditable service for such periods of employment. Service with the Federal Government, including any military service, may be claimed. Upon completion of each year of service earned under the Florida Retirement System, a member may purchase up to 1 year of retirement credit for his or her out-of-state service, subject to the following provisions:

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

(a) The out-of-state service being claimed must have been:

1. Performed in a position of employment with the state or a political subdivision thereof or with the Federal Government;

2. Covered by a retirement or pension plan provided by the state or political subdivision, or by the Federal Government, as appropriate; and

3. Performed prior to a period of membership in the Florida Retirement System.

(b) The member must have completed a minimum of 10 years of creditable service under the Florida Retirement System, excluding out-of-state service and in-state service claimed and purchased under s. 121.1122.

(c) Not more than 5 years of creditable service may be claimed for creditable service aggregated under the provisions of this section and s. 121.1122.

(d) The out-of-state service credit claimed under this section shall be credited only as service in the Regular Class of membership, and any benefit or pension based thereon shall be subject to the limitations and restrictions of s. 112.65.

(e) A member shall be eligible to receive service credit for out-of-state service performed after leaving the Florida Retirement System only upon return to membership and completion of at least 1 year of creditable service in the Florida Retirement System following the out-of-state service. ~~Military service may not be claimed under this section as out-of-state service.~~

(2) COST.—For each year claimed, the member must pay into the System Trust Fund an amount equal to 20 percent of the member's annual compensation for the first full work year of creditable service earned under the Florida Retirement System, but not less than \$12,000, plus interest at 6.5 percent compounded annually from the date of first annual salary earned until full payment is made. The employer may pay all or a portion of the cost of this service credit.

Section 12. Section 121.1122, Florida Statutes, is created to read:

121.1122 Purchase of retirement credit for in-state public service and in-state service in accredited nonpublic, nonsectarian schools and colleges, including charter schools.—Effective January 1, 1998, a member of the Florida Retirement System may purchase creditable service for periods of certain public or nonpublic, nonsectarian employment performed in this state, as provided in this section.

(1) PURCHASE OF RETIREMENT CREDIT AUTHORIZED.—Subject to the provisions of subsections (2) and (3), a member of the Florida Retirement System may purchase up to 5 years of retirement credit for:

(a) Periods of public employment in this state; or

(b) Periods of employment in charter schools or in any nonpublic, nonsectarian school or college in this state that is accredited by the Southern Association of Colleges and Schools.

Credit for 1 year of such service may be purchased for each year of creditable service a member completes under the Florida Retirement System.

(2) LIMITATIONS AND CONDITIONS.—

(a) A member is not eligible to receive credit for in-state service under this section until he or she has completed 10 years of creditable service under the Florida Retirement System, excluding service purchased under this section and out-of-state service claimed and purchased under s. 121.1115.

(b) A member may not purchase and receive credit for more than 5 years of creditable service aggregated under the provisions of this section and s. 121.1115.

(c) Service credit claimed under this section shall be credited only as service in the Regular Class of membership and shall be subject to the provisions of s. 112.65.

(d) A member shall be eligible to receive service credit for in-state service performed after leaving the Florida Retirement System only upon returning to membership and completing at least 1 year of creditable service in the Florida Retirement System following the in-state service.

(e) The service claimed must have been service covered by a retirement or pension plan provided by the employer.

(3) COST.—The cost to purchase retirement credit under this section shall be calculated in the same manner as set forth in s. 121.1115(2) for purchase of credit for out-of-state service.

Section 13. Section 121.121, Florida Statutes, is amended to read:

121.121 Future service to include authorized leaves of absence.—Future service of any member as defined in s. 121.021(21) shall also include up to 2 work years of creditable service for authorized leaves of absence if:

(1) The member has completed a minimum of 10 years of creditable service, excluding periods of leave of absence;:

(2) The leave of absence is authorized in writing by the employer of the member and approved by the administrator;:

(3) The member returns to active employment performing service with a Florida Retirement System employer in a regularly established position immediately upon termination of the leave of absence and remains on the employer's payroll for one calendar month, except that a member who retires on disability while on a medical leave of absence shall not be required to return to employment; and

~~(4)~~⁽³⁾ The member makes the required contributions for service credit during the leave of absence, which shall be 8 percent until January 1, 1975, and 9 percent thereafter of his or her rate of monthly compensation in effect immediately prior to the commencement of such leave for each month of such period, plus 4 percent interest until July 1, 1975, and 6.5 percent interest thereafter on such contributions, compounded annually each June 30 from the due date of the contribution to date of payment. Effective July 1, 1980, any leave of absence purchased pursuant to this section shall be at the contribution rates specified in s. 121.071 in effect at the time the leave is granted for the class of membership from which the leave of absence was granted; however, any member who purchased leave-of-absence credit prior to July 1, 1980, for a leave of absence from a position in a class other than the regular membership class, may pay the appropriate additional contributions plus compound interest thereon and receive creditable service for such leave of absence in the membership class from which the member was granted the leave of absence.

Section 14. Section 121.122, Florida Statutes, is amended to read:

121.122 Renewed membership in system.—Except as provided in s. 121.053, effective July 1, 1991, any retiree of a state-administered retirement system who is employed in a regularly established position with a covered employer shall be enrolled as a compulsory member of the Regular Class of the Florida Retirement System or, effective July 1, 1997, any retiree of a state-administered retirement system who is employed in a position included in the Senior Management Service Class shall be enrolled as a compulsory member of the Senior Management Service Class of the Florida Retirement System as provided in s. 121.055, and shall be entitled to receive an additional retirement benefit, subject to the following conditions:

(1)(a) Such member shall resatisfy the age and service requirements as provided in this chapter for initial membership under the system, unless such member elects to participate in the Senior Management Service Optional Annuity Program in lieu of the Senior Management Service Class, as provided in s. 121.055(6).

(b) Such member shall not be entitled to disability benefits as provided in s. 121.091(4).

(c) Such member must meet the reemployment after retirement limitations as provided in s. 121.091(9), as applicable.

(2) Upon renewed membership, the employer of such member shall pay the applicable employer contributions as required by ss. 121.055(3) and s. 121.071(1)(a) and (4).

(3) Such member shall be entitled to purchase additional retirement credit in the Regular Class for any postretirement service performed in a regularly established position prior to July 1, 1991, by paying the Regular Class applicable employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund. The contribution for postretirement service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, shall be the difference between such contribution and the total applicable contribution for the period being claimed, plus interest. The employer of such member may pay the applicable employer contribution in lieu of the member.

(4) No creditable service for which credit was received, or which remained unclaimed, at retirement may be claimed or applied toward service credit earned following renewed membership. However, service earned as an elected officer with renewed membership in the Elected State and County Officers' Class may be used in conjunction with creditable service earned under this section, provided the applicable vesting requirements and other existing statutory conditions required by this chapter are met.

(5) Notwithstanding any other limitations provided in this section, a participant of the State University System Optional Retirement Program or the Senior Management Service Optional Annuity Program who terminated employment and commenced receiving an annuity under the provisions of the optional program, who renews membership in the Regular Class as required by this section upon reemployment after retirement, and who had previously earned creditable Florida Retirement System service that was not included in any retirement benefit may include such previous service toward vesting and service credit in the second career benefit provided under renewed membership.

(6) Any renewed member who is not receiving the maximum health insurance subsidy provided in s. 112.363 shall be entitled to earn additional credit toward the maximum health insurance subsidy. Any additional subsidy due because of such additional credit shall be received only at the time

of payment of the second career retirement benefit. In no case shall the total health insurance subsidy received by a retiree receiving benefits from initial and renewed membership exceed the maximum allowed in s. 112.363.

Section 15. Paragraph (a) of subsection (2) of section 121.23, Florida Statutes, 1996 Supplement, is amended to read:

121.23 Disability retirement and special risk membership applications; Retirement Commission; powers and duties; judicial review.—The provisions of this section apply to all proceedings in which the administrator has made a written final decision on the merits respecting applications for disability retirement, reexamination of retired members receiving disability benefits, applications for special risk membership, and reexamination of special risk members in the Florida Retirement System. The jurisdiction of the State Retirement Commission under this section shall be limited to written final decisions of the administrator on the merits.

(2) A member shall be entitled to a hearing before the State Retirement Commission pursuant to ss. 120.569 and 120.57(1) on the merits of any written adverse decision of the administrator, if he or she files with the commission a written request for such hearing within 21 days after receipt of such written decision from the administrator. For the purpose of such hearings, the commission shall be an “agency head” as defined by s. 120.52.

(a) The commission shall have the authority to issue orders as a result of a hearing that shall be binding on all parties to the dispute. The commission may order any action that it deems appropriate. Any disability retirement order of the commission issued pursuant to this subsection which sustains the application of the member may include an amount, to be determined by the commission, for reasonable attorney’s fees and taxable costs, which shall be calculated in accordance with the statewide uniform guidelines for taxation of costs in civil actions. The amount of the attorney’s fee may not exceed 50 percent of the initial yearly benefit awarded under s. 121.091(4). In cases involving disability retirement, the State Retirement Commission shall require the member to present competent medical evidence and may require vocational evidence before awarding disability retirement benefits.

Section 16. Subsections (5) and (7) of section 121.30, Florida Statutes, 1996 Supplement, are amended, and subsection (9) is added to that section, to read:

121.30 Statements of purpose and intent and other provisions required for qualification under the Internal Revenue Code of the United States.—Any other provisions in this chapter to the contrary notwithstanding, it is specifically provided that:

(5) No benefit payable hereunder for any limitation year shall exceed the maximum amount, including cost-of-living adjustments, allowable by law for qualified pension plans under applicable existing or hereafter-enacted provisions of the Internal Revenue Code of the United States.

(7) Any provision of this chapter relating to an optional annuity or retirement program must be construed and administered in such manner that such program will qualify as a qualified pension plan under applicable existing or hereafter-enacted provisions of the Internal Revenue Code of the United States, ~~and the division may adopt any rule necessary to accomplish the purpose of this subsection not inconsistent with this chapter.~~

(9) The division may adopt any rule necessary to accomplish the purpose of the section which is not inconsistent with this chapter.

Section 17. Paragraph (c) of subsection (3), paragraphs (a) and (d) of subsection (4), and paragraph (a) of subsection (5) of section 121.35, Florida Statutes, are amended, and present paragraphs (c) and (d) of subsection (6) of that section are redesignated as paragraphs (d) and (e), respectively, and a new paragraph (c) is added to that subsection, to read:

121.35 Optional retirement program for the State University System.—

(3) ELECTION OF OPTIONAL PROGRAM.—

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

1. Any employee whose optional retirement program eligibility results from initial employment shall be enrolled in the program at the commencement of employment. If, within 90 days after commencement of employment, the employee elects membership in the Florida Retirement System, such membership shall be effective retroactive to the date of commencement of employment.

2. Any employee whose optional retirement program eligibility results from a change in status due to the subsequent designation of the employee's position as one of those specified in paragraph (2)(a) or due to the employee's appointment, promotion, transfer, or reclassification to a position specified in paragraph (2)(a) shall be enrolled in the optional retirement program upon such change in status and shall be notified by the employer of such action. If, within 90 days after the date of such notification, the employee elects to retain membership in the Florida Retirement System, such continuation of membership shall be retroactive to the date of the change in status.

3. Notwithstanding the provisions of s. 121.35(3)(c), effective July 1, 1997, any employee who is eligible to participate in the Optional Retirement Program and who fails to execute an annuity contract with one of the approved companies and to notify the division in writing as provided in s. 121.35(4) within 90 days of the date of eligibility shall be deemed to have elected membership in the Florida Retirement System, except as provided in s. 121.051(1)(a). This provision shall also apply to any employee who terminates employment in an eligible position before executing the required

annuity contract and notifying the division. Such membership shall be retroactive to the date of eligibility, and all appropriate contributions shall be transferred to the Florida Retirement System Trust Fund and the Health Insurance Subsidy Trust Fund.

(4) CONTRIBUTIONS.—

(a) Each employer shall contribute on behalf of each participant in the optional retirement program an amount equal to the normal cost portion of the employer retirement contribution which would be required if the participant were a regular member of the Florida Retirement System, plus the portion of the contribution rate required in s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund, less an amount approved by the Legislature which shall be deducted by the division to provide for the administration of this program. The payment of the contributions to the optional program which is required by this paragraph for each participant shall be made by the employer to the division, which shall forward the contributions to the designated company or companies contracting for payment of benefits for the participant under the program. However, such contributions paid on behalf of an employee described in paragraph (3)(c) shall not be forwarded to a company and shall not begin to accrue interest until the employee has executed an annuity contract and notified the division. ~~The contributions required by this paragraph and paid on behalf of an employee described in paragraph (3)(c) who fails to execute an annuity contract prior to termination of employment shall be retained by the division for the administration of this program.~~

(d) Each participant in the optional retirement program who has executed an annuity contract may contribute by way of salary reduction or deduction a percentage amount of the participant's gross compensation not to exceed the percentage amount contributed by the employer to the optional program, but in no case may such contribution exceed federal limitations. Payment of the participant's contributions shall be made by the financial officer of the employer to the division which shall forward the contributions to the designated company or companies contracting for payment of benefits for the participant under the program.

(5) BENEFITS.—

(a) Benefits shall be payable under the optional retirement program only to vested participants in the program or their beneficiaries, and such benefits shall be paid only by the designated company in accordance with the terms of the annuity contract or contracts applicable to the participant. Benefits funded by employer contributions shall be payable only as a lifetime annuity to the participant, his beneficiary, or his estate, except for:

1. A lump-sum payment to the beneficiary upon the death of the participant; or

2. A cash-out of a de minimis account upon the request of a former participant who has been terminated for a minimum of 6 months from the employment that entitled him to Optional Retirement Program participation. A de minimis account is an account with a provider company containing

employer contributions and accumulated earnings of not more than \$3,500 made under the provisions of this chapter. Such cash-out must be a complete liquidation of the account balance with that company and is subject to the provisions of the Internal Revenue Code.

(6) ADMINISTRATION OF PROGRAM.—

(c) Effective July 1, 1997, the State Board of Administration shall review and make recommendations to the division on the acceptability of all investment products proposed by provider companies of the optional retirement program before they are offered through annuity contracts to the participants and may advise the division of any changes necessary to ensure that the optional retirement program offers an acceptable mix of investment products. The division shall make the final determination as to whether an investment product will be approved for the program.

Section 18. Paragraph (e) of subsection (2) of section 121.051, Florida Statutes, 1996 Supplement, is amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(e) Notwithstanding any other provision of this chapter to the contrary, any independent participating agency that has failed to report the employees of a dependent governmental entity within its jurisdiction for membership in the Florida Retirement System as required under this chapter shall enroll in the system, effective July 1, 1996, all employees filling a regularly established position who are not currently participating in a retirement plan provided by the dependent entity. the Employees of the dependent entity participating in such a retirement plan on July 1, 1996, may remain in that plan or participate in the Florida Retirement System and shall make such election in writing into the system effective July 1, 1996. The eligible employees of the dependent entity shall be compulsory members of the Florida Retirement System as of that date. Such employees are eligible to claim past service as provided in s. 121.081. All eligible employees hired on or after July 1, 1996, by any such dependent entity shall be compulsory members of the Florida Retirement System. Any independent participating agency shall be responsible for identifying all such dependent governmental entities within its jurisdiction and for providing to the division a list of all employees of such entities as of July 1, 1997.

Section 19. Subsection (2) of section 238.181, Florida Statutes, is amended to read:

238.181 Reemployment after retirement; conditions and limitations.—

(2)(a) Any person retired under this chapter, except under the disability retirement provisions of s. 238.07, may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his or her employer without limitation, except that no person may receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chap-

ter for a period of 12 months immediately subsequent to the date of retirement.

(b) Any person to whom the limitation in paragraph (a) applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System before completion of the 12-month limitation period shall give timely notice of this fact in writing to his or her employer and to the division and shall have his or her retirement benefits suspended for the balance of the 12-month limitation period. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

(c) A district school board may reemploy a retired member as a substitute or hourly teacher on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers are subject to the retirement contribution required by paragraph (g). Reemployment of a retired member as a substitute or hourly teacher is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to his or her employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of his or her first 12 months of retirement. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during his or her first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

(d) A community college board of trustees may reemploy a retired member as an adjunct instructor, that is, an instructor who is noncontractual and

part time, or as a participant in a phased retirement program within a community college, after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the retirement contribution required in paragraph (g). A retired member may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to his or her employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of his or her first 12 months of retirement. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during his or her first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

(e) The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a retired member as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School for the Deaf and the Blind reemploying such teachers, residential instructors, or nurses is subject to the retirement contribution required by paragraph (g). Reemployment of a retired member as a substitute teacher, substitute residential instructor, or substitute nurse is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to his or her employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of his or her first 12 months of retirement. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during his or her first 12 months of retirement shall be repaid to the Retirement System Trust

Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

(f) The State University System may reemploy a retired member as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in paragraph (g), as appropriate. A retired member may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to his or her employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of his or her first 12 months of retirement. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during his or her first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

(g) The employment by an employer of any retiree of a state-administered retirement system shall have no effect on the average final compensation or years of creditable service of such retiree. Prior to July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who has been retired under any state-administered retirement program, the employer shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for a regular member of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for renewed membership.

(h) The limitations of this subsection apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

Section 20. Sections 25.101, 25.112, 25.122, 25.131, 25.141, 25.161, 38.14, 38.15, 38.16, 38.17, 38.19, 123.01, 123.02, 123.03, 123.04, 123.05, 123.051, 123.06, 123.07, 123.08, 123.10, 123.11, 123.12, 123.13, 123.14,

123.15, 123.16, 123.17, 123.18, 123.19, 123.21, 123.22, 123.23, 123.24, 123.25, 123.26, 123.27, 123.28, 123.29, 123.30, 123.31, 123.32, 123.33, 123.34, 123.35, 123.36, 123.37, 123.38, 123.39, 123.40, 123.41, 123.42, 123.43, 123.44, and 123.45, Florida Statutes, are repealed.

Section 21. The Division of Retirement shall have rulemaking authority for administering all the provisions of this act.

Section 22. There is appropriated from the Florida Retirement System Trust Fund sufficient funds, not to exceed \$300,000 annually, to pay attorney's fees and taxable costs as directed by the State Retirement Commission in accordance with section 121.23(2)(a), Florida Statutes.

Section 23. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and of its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and are managed, administered, and funded in an actuarially sound manner, as required by Section 14, Article X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

Section 24. On or after July 1, 1997, the Department of Management Services shall provide for an open enrollment period for retired state employees who want to obtain health insurance coverage under sections 110.123 and 110.12315, Florida Statutes. The options offered during the open enrollment period must provide the same health insurance coverage as the coverage provided to active employees under the same premium payment conditions in effect for covered retirees, including eligibility for health insurance subsidy payments under section 112.363, Florida Statutes. A person who separates from employment subsequent to May 1, 1988, but whose date of retirement occurs on or after August 1, 1995, is eligible as of the first open enrollment period occurring after July 1, 1997, with an effective date of January 1, 1998, as long as the retiree's enrollment remains in effect.

Section 25. Except as otherwise provided in this act, this act shall take effect upon becoming a law.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.