

Committee Substitute for House Bill No. 1013

An act relating to the Florida Retirement System; amending s. 121.091, F.S., relating to benefits payable under the Florida Retirement System; providing for payment of federally limited benefits through the Florida Retirement System Preservation of Benefits Plan; creating s. 121.1001, F.S.; creating the Florida Retirement System Preservation of Benefits Plan; providing for eligibility; providing for benefits and contributions; providing for administration; providing a finding of important state interest; providing an effective date.

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

Section 1. Paragraph (d) is added to subsection (14) of section 121.091, Florida Statutes, 1998 Supplement, to read:

121.091 Benefits payable under the system.—Benefits may not 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. The division may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the division's rules. The division shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

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

(d) A payee whose retirement benefits are reduced by the application of maximum benefit limits under s. 415(b) of the Internal Revenue Code, as specified in s. 121.30(5), shall have the portion of his or her calculated benefit in the Florida Retirement System defined benefit plan which exceeds such federal limitation paid through the Florida Retirement System Preservation of Benefits Plan, as provided in s. 121.1001.

Section 2. Section 121.1001, Florida Statutes, is created to read:

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

(1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF BENEFITS PLAN.—A payee of the Florida Retirement System shall participate in the Preservation of Benefits Plan whenever his or her earned benefit under the Florida Retirement System defined benefit plan exceeds the benefit maximum established under s. 415(b) of the Internal Revenue Code. Participation in the Preservation of Benefits Plan shall continue for as long as the payee's earned benefit under the Florida Retirement System defined benefit plan is reduced by the application of the maximum benefit limit under s. 415(b) of the Internal Revenue Code.

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

(a) On and after July 1, 1999, the Division of Retirement shall pay to each eligible payee of the Florida Retirement System who retires before, on, or after such date, a supplemental retirement benefit equal to the difference between the amount of the payee's monthly retirement benefit which would have been payable under the Florida Retirement System defined benefit plan if not for a reduction due to the application of s. 415(b) of the Internal Revenue Code and the reduced monthly retirement benefit as paid to the payee. The Preservation of Benefits Plan benefit shall be computed and payable under the same terms and conditions and to the same person as would have applied under the Florida Retirement System defined benefit plan were it not for the federal limitation.

(b) The benefits under the Preservation of Benefits Plan shall not be subject to execution, garnishment, attachment, or any other process of any court with respect to a payee under the Preservation of Benefits Plan 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.

(3) CONTRIBUTIONS.—

(a) The Preservation of Benefits Plan shall be unfunded within the meaning of the federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise shall be made or allowed under the Preservation of Benefits Plan. Benefits due under the Preservation of Benefits Plan as determined by the Division of Retirement shall be paid timely from the Preservation of Benefits Plan Trust Fund, if created by law.

(b) Florida Retirement System monthly retirement contributions paid to the Division of Retirement by the payee's past covered employer shall be reduced by the employer as directed by the Division of Retirement by an amount necessary to meet the requirements for payment of restored benefits under the Preservation of Benefits Plan.

(4) ADMINISTRATION.—

(a) The Division of Retirement shall compile and maintain all records necessary or appropriate for the administration of the Preservation of Benefits Plan, including, but not limited to, the making of requisite calculations and disbursements under the Preservation of Benefits Plan.

(b) The Division of Retirement is authorized to adopt rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of this section in accordance with s. 415(m) of the Internal Revenue Code, including rules providing the procedures by which the Preservation of Benefits Plan is to be administered.

Section 3. 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 that are managed, administered, and funded in an actuarially sound manner, as required by s. 14, Article X of the Florida 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 4. This act shall take effect July 1, 1999.

Approved by the Governor June 18, 1999.

Filed in Office Secretary of State June 18, 1999.