

CHAPTER 99-9

House Bill No. 1055

An act relating to the Florida Statutes; amending ss. 121.021, 121.051, 121.052, 121.053, 121.055, 121.091, and 121.122, Florida Statutes, pursuant to the directive in s. 17, ch. 98-413, Laws of Florida, to change “Elected State and County Officers’ Class” to “Elected Officers’ Class” wherever the same appears in chapter 121.

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

Section 1. Subsection (12) and paragraph (d) of subsection (29) of section 121.021, Florida Statutes, 1998 Supplement, are amended 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:

(12) “Member” means any officer or employee who is covered or who becomes covered under this system in accordance with this chapter. On and after December 1, 1970, all new members and those members transferring from existing systems shall be divided into the following classes: “Special Risk Class,” as provided in s. 121.0515(2); “Special Risk Administrative Support Class,” as provided in s. 121.0515(7); “Elected State and County Officers’ Class,” as provided in s. 121.052; “Senior Management Service Class,” as provided in s. 121.055; and “Regular Class,” which consists of all members who are not in the Special Risk Class, Special Risk Administrative Support Class, Elected State and County Officers’ Class, or Senior Management Service Class.

(29) “Normal retirement date” means the first day of any month following the date a member attains one of the following statuses:

(d) If an Elected ~~State-County~~ Officers’ Class member, the member:

1. Completes 8 years of creditable service in the Elected ~~State and County~~ Officers’ Class and attains age 62; or

2. Completes 30 years of any creditable service, regardless of age, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system.

“Normal retirement age” is attained on the “normal retirement date.”

Section 2. Paragraph (a) of subsection (9) of section 121.051, Florida Statutes, 1998 Supplement, is amended to read:

121.051 Participation in the system.—

(9) DUAL EMPLOYMENT.—A member may not participate in more than one state-administered retirement system, plan, or class of membership simultaneously. Pursuant thereto:

(a) With respect to any member who is not eligible to participate in the Elected ~~State and County~~ Officers' Class, but who is simultaneously employed in two or more positions covered by different Florida Retirement System classes:

1. The member must participate in the membership class for the position in which he or she is employed the majority of the time: the Regular Class, Senior Management Service Class, Special Risk Class, or Special Risk Administrative Support Class; or

2. If the employment is split equally between or among positions, the member may choose any single class of membership for which he or she is eligible, whether or not the positions are full-time positions. The member's choice must be made in writing and remains in effect as long as the member is employed equally in two or more positions.

Section 3. Subsections (1), (2), (3), (5), and (6), paragraph (b) of subsection (7), subsections (8), (9), and (10), paragraphs (a) and (c) of subsection (11), and subsections (12), (13), and (14) of section 121.052, Florida Statutes, 1998 Supplement, are amended to read:

121.052 Membership class of elected officers.—

(1) ESTABLISHMENT OF CLASS.—There is hereby established a separate class of members within the Florida Retirement System, which hereafter may be cited as the "Elected ~~State and County~~ Officers' Class." Unless the context otherwise requires, any reference to said class shall also be construed as a reference to the Elected State Officers' Class, as the same existed prior to July 3, 1990.

(2) MEMBERSHIP.—The following holders of 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 paragraphs (3)(a)-(d):

(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. 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, 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, 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 in paragraph (a), such member shall pay a sum equal to the difference between the amounts derived under subparagraphs 1. and 2.:

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

b. 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. 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. 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 elected officer as described in paragraph (a), may elect to claim additional retirement credit in the ~~Elected State and County Officers' Class~~ pursuant to paragraph (a) upon payment of the required contributions and interest due the Florida Retirement System Trust Fund. 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.

(6) DUAL EMPLOYMENT.—A member may not participate in more than one state-administered retirement system, plan, or class of membership simultaneously. If an elected officer becomes dually employed, or if a member becomes dually employed as an elected officer, such officer shall have 6 months to elect membership from among the plans or classes for which he or she is eligible, as set forth in this subsection. Failure to make election during the prescribed period shall result in compulsory membership in the ~~Elected State and County Officers' Class~~.

(a) If an elected officer is or becomes dually employed, he or she may elect membership in the ~~Elected State and County Officers' Class~~ and retirement contributions shall be made only on the salary earned as a state or county elected officer. At retirement, the officer's average final compensation shall

be based only on the salary received as an officer of that class for any period including dual employment.

(b) If an elected officer is or becomes dually employed in a position in the Regular Class, such officer may elect membership in the Regular Class and contributions shall be paid on the total salary received for all employment, at the contribution rate required for the Regular Class. At retirement, the officer's average final compensation shall be based on all salary reported for both classes for any period including dual employment.

(c) If an elected officer is or becomes dually employed in a position in a class other than the Regular Class, he or she may elect to be a member of the other class for which he or she is eligible and retirement contributions shall be based only on the salary earned in the position other than the elected position. At retirement, the officer's average final compensation shall be based only on the salary received as an employee in that position for any period including dual employment.

(d) A member of the State University System Optional Retirement Program, the State Community College System Optional Retirement Program, or the Senior Management Service Optional Annuity Program who becomes dually employed in an elected office eligible for the ~~Elected State and County Officers' Class~~ shall, within 6 months after assuming office, select membership in one of the following classes or plans. Failure to timely notify the administrator of such selection shall result in compulsory membership in the ~~Elected State and County Officers' Class~~ for the entire period of dual employment as an elected officer.

1. ~~The Elected State and County Officers' Class.~~—If the participant elects membership in the ~~Elected State and County Officers' Class~~, participation in the optional retirement program or the optional annuity program shall cease for the period of dual employment, and retirement contributions shall be paid as required only on the salary earned as a state or county elected officer. At retirement, the member's average final compensation under the Florida Retirement System shall be based only on the salary received as an employee in that position for such period including dual employment. When the member ceases to be a dually employed elected officer, he or she may, within 90 days, elect membership in the Florida Retirement System class for which he or she is eligible, except as provided in s. 121.051(1)(a) for members of a faculty practice plan, or may again become a participant in the optional retirement program or the optional annuity program for which he or she is eligible.

2. ~~The State University System Optional Retirement Program, the State Community College System Optional Retirement Program, or the Senior Management System Optional Annuity Program.~~—If the participant elects to remain a member of the optional program, retirement contributions shall be paid as required only on the salary earned in the position eligible for the optional program selected. At retirement, his or her annuity shall include the contributions required only on the salary received for employment in the position eligible for the selected optional program for such period including dual employment.

3. The Regular Class.—If the participant elects membership in the Regular Class, participation in the optional retirement program or the optional annuity program shall cease for the period of dual employment and retirement contributions shall be paid as required on the total salary received for all employment. At retirement, his or her average final compensation under the Florida Retirement System shall be based on all salary reported for both positions during such period of dual employment. Membership in the optional program shall cease for as long as the officer remains an elected officer. When such member ceases to be a dually employed elected officer, he or she may, within 90 days, elect membership in the Florida Retirement System class for which he or she is eligible, except as provided in s. 121.051(1)(a) for members of a faculty practice plan, or again become a participant in the optional retirement program or the optional annuity program for which he or she is eligible.

(e) Where a former elected officer purchasing additional retirement credit under subparagraph (5)(b)2. was dually employed, employee and employer contributions paid for service in the position not covered by the Elected ~~State and County~~ Officers' Class shall be refunded to the employee and employer, as applicable, and no salaries earned in a class other than the Elected ~~State and County~~ Officers' Class shall apply toward the officer's average final compensation.

(7) CONTRIBUTIONS.—

(b) The employer paying the salary of a member of the Elected ~~State and County~~ Officers' Class shall contribute an amount as specified in this subsection which shall constitute the entire employer retirement contribution with respect to such member. The employer shall also withhold one-half of the entire contribution of the member required for social security coverage.

(8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member of the Elected ~~State and County~~ Officers' Class shall have the same normal retirement date as defined in s. 121.021(29) for a member of the regular class of the Florida Retirement System, except that only 8 years of creditable service in this class are needed to attain the normal retirement date specified in s. 121.021(29)(a). Any public service commissioner who was removed from the Elected State Officers' Class on July 1, 1979, after attaining at least 8 years of creditable service in that class shall be considered to have reached the normal retirement date upon attaining age 62 as required in s. 121.021(29)(a).

(9) AVERAGE FINAL COMPENSATION.—The average final compensation of a member of the Elected ~~State and County~~ Officers' Class shall be as defined in s. 121.021(24). If a member has received credit for upgraded previous Elected ~~State and County~~ Officers' Class service as provided in subsection (5), and the upgraded service salary is greater than his or her actual salary, the upgraded service salary shall be used to calculate the member's average final compensation.

(10) ACCRUED SERVICE VALUE.—A member of the Elected ~~State and County~~ Officers' Class who is a Supreme Court justice, district court of

appeal judge, circuit judge, or county court judge shall receive judicial retirement credit of $3\frac{1}{3}$ percent of average final compensation, and all other members shall receive elected officer retirement credit of 3 percent of average final compensation, for each year of creditable service in such class.

(11) RETENTION OF CREDIT.—

(a) Any member of the Elected ~~State and County~~ Officers' Class who ceases to fill an office covered by this class and who is employed in a position covered by another class of the Florida Retirement System shall retain judicial or elected officer retirement credit in the Florida Retirement System, as applicable, for each year of creditable service in such class.

(c) Any member of the Elected ~~State and County~~ Officers' Class who leaves office or otherwise terminates membership in the retirement system for any reason other than death or retirement and who does not come under the provisions of paragraph (a) or paragraph (b) shall be subject to the termination benefit provisions of s. 121.091(5).

(12) BENEFITS.—

(a) Upon attaining his or her normal retirement date, a member of the Elected ~~State and County~~ Officers' Class shall, upon application to the administrator, receive a monthly benefit which shall commence on the last day of the month of retirement and be payable on the last day of each month thereafter during his or her lifetime. The amount of such monthly benefit shall be the total percentage of accrued value received by the member multiplied by his or her average monthly compensation. The total percentage of accrued value received by a member shall be the sum of the retirement credit earned or purchased as a member of the Elected ~~State and County~~ Officers' Class, and any other retirement credit earned or purchased as a member of an existing system or another class of the Florida Retirement System, together with any additional retirement credit he or she has acquired for upgraded service within the purview of the class, wartime military service, or past or prior service. However, in no event shall the annual benefit exceed the member's average final compensation.

(b) The benefit provisions of s. 121.091(2)-(6), (8), (9), and (11), relating to benefits payable for dual normal retirement ages, early retirement, disability retirement, termination benefits, optional forms of retirement, designation of beneficiaries, employment after retirement, and method of computing actuarial equivalent, respectively, shall also apply to members of the Elected ~~State and County~~ Officers' Class, except that only 8 years of creditable service in this class are needed to attain the benefits specified in s. 121.091(3) and (5). These provisions shall be construed in such manner as to make them compatible with the provisions of this section.

(c) The benefit provisions of s. 121.091(7), relating to death benefits, shall apply to members of the Elected ~~State and County~~ Officers' Class and shall be construed in such manner as to make them compatible with the provisions of this section; however, only 8 years of creditable service in this class are needed to obtain such benefits, except that:

1. If any elected official dies in office who would have been vested under the Elected ~~State and County~~ Officers' Class, any other class of the Florida Retirement System, or any other state-administered retirement system, if the official had lived to complete his or her term of office, the official's spouse may elect to leave the official's retirement contributions in the retirement trust fund and pay into said fund any required contributions which would have been paid by the officer or the employer had the officer lived to complete the term of office.

2. If a deceased member's surviving spouse as described in subparagraph 1. previously received a refund of the member's contributions made to the retirement trust fund, the surviving spouse may pay into the retirement trust fund an amount equal to the deceased member's contributions previously refunded, together with interest at 4 percent compounded annually on the amount of such refunded contributions from the date of refund until July 1, 1975, and at 6.5 percent compounded annually thereafter to the date of payment, plus such additional contributions as may be required under subparagraph 1., in order to become vested, as applicable.

Upon conclusion of the term of office to which the deceased officer was elected, a spouse who pays into the retirement trust fund such additional or refunded contributions, plus interest, shall be eligible to receive a monthly benefit in the same manner as the surviving spouse of a member who dies after accumulating the required number of years of creditable service as described herein.

(d) The provisions of ss. 121.101 and 121.111, relating to the cost-of-living adjustment of retirement benefits and retirement credit for wartime military service, respectively, shall apply to members of the Elected ~~State and County~~ Officers' Class. Creditable service for actual wartime service, as authorized by s. 121.111(2), not exceeding 4 years, shall be acquired and paid for as provided in said subsection. Upon payment by the member of 4 percent of gross salary plus accrued interest, retirement credit shall be granted at the rate of 1.6 percent for each year of creditable service acquired under said subsection.

(13) SOCIAL SECURITY COVERAGE.—Members of the Elected ~~State and County~~ Officers' Class shall be subject to social security coverage as provided by the federal Social Security Act. The administrator shall make such modification to the agreement between the state and the Federal Social Security Administrator, made pursuant to the provisions of chapter 650, hold any referendum, or take any other action as may be required to provide social security coverage for such members.

(14) RULES.—The administrator shall make such rules as are necessary for the effective and efficient administration of the Elected ~~State and County~~ Officers' Class.

Section 4. Subsection (1) of section 121.053, Florida Statutes, 1998 Supplement, is amended to read:

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

(1)(a) Any member who retired under any existing system as defined in s. 121.021(2), and receives a benefit thereof, and who serves in an office covered by the Elected ~~State and County~~ Officers' Class for a period of at least 8 years, shall be entitled to receive an additional retirement benefit for such elected officer service prior to July 1, 1990, under the Elected ~~State and County~~ Officers' Class of the Florida Retirement System, as follows:

1. Upon completion of 8 or more years of creditable service in an office covered by the Elected ~~State and County~~ Officers' Class, s. 121.052, such member shall notify the administrator of his or her intent to purchase elected officer service prior to July 1, 1990, and shall pay the member contribution applicable 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 annually thereafter, until full payment is made to the Florida Retirement Trust Fund; however, such member may purchase retirement credit under the Elected ~~State and County~~ Officers' Class only for such service as an elected officer.

2. Upon payment of the amount specified in subparagraph 1., the employer shall pay into the Florida Retirement Trust Fund the applicable employer contribution for the period of elected officer service prior to July 1, 1990, being claimed by the member, plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until full payment is made to the Florida Retirement Trust Fund.

(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 and becomes vested under that class, 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. If a member does not wish to claim credit for all of the postretirement service for which he or she is eligible, the service the member claims must be the most recent service.

4. Creditable service for which credit was received, or which remained unclaimed, at retirement may not be claimed or applied toward service credit earned following renewed membership. However, service earned in accordance with the renewed membership provisions 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. Paragraph (f) of subsection (1) and paragraph (g) of subsection (6) of section 121.055, Florida Statutes, 1998 Supplement, 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.

(6)

(g) Dual employment.—A participant in the optional annuity program may not participate in more than one state-administered retirement system, plan, or class simultaneously. The following shall apply to a participant who is or becomes dually employed:

1. A participant who is or becomes dually employed in two or more positions covered by the Florida Retirement System, one of which is eligible for the optional annuity program and one of which is not, shall make one of the following choices:

a. Remain a member of the optional annuity program, in which case contributions shall be paid as required only on the salary earned in the position eligible for the optional annuity program during the period of dual employment;

b. Elect, within 90 days after becoming dually employed, membership in the Regular Class of the Florida Retirement System in lieu of the optional annuity program, in which case contributions shall be paid as required on the total salary received for all employment, and, at retirement, the member's average final compensation used to calculate any benefits for which he or she becomes eligible under the Florida Retirement System shall be based on all salary reported for all covered positions during the period of dual employment; or

c. If dually employed in an elected office eligible for the Elected ~~State and County~~ Officers' Class, select, within 6 months after assuming office, membership in the Elected ~~State and County~~ Officers' Class, in which case, participation in the optional annuity program shall cease for the period of dual employment, retirement contributions shall be paid as required only on the salary earned as an elected officer, and, at retirement, the member's benefit under the Florida Retirement System shall be based only on the salary received as an elected officer for the period of dual employment.

2. When such member ceases to be dually employed, he or she shall make one of the following choices:

a. If the position in which he or she remains is a position that is eligible for the optional annuity program, he or she may, within 90 days after ceasing dual employment, elect to remain in the Florida Retirement System class for which he or she is eligible or to again become a participant in the optional annuity program. Failure to elect membership in the optional annuity program within 90 days shall result in compulsory membership in the Florida Retirement System; or

b. If the position in which he or she remains is not a position that is eligible for the optional annuity program, he or she shall participate in the Florida Retirement System class for which he or she is eligible.

Section 6. Paragraph (a) of subsection (1), subsection (2), paragraph (a) of subsection (3), paragraph (b) of subsection (9), and paragraph (b) of subsection (13) of section 121.091, Florida Statutes, 1998 Supplement, are amended 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.

(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 normal retirement benefit, including any past or additional retirement credit, may not exceed 100 percent of the average final compensation. The amount of monthly benefit shall be calculated as the product of A and B, subject to the adjustment of C, if applicable, as set forth below:

(a)1. For creditable years of Regular Class service, A is 1.60 percent of the member's average final compensation, up to the member's normal retirement date. Upon completion of the first year after the normal retirement date, A is 1.63 percent of the member's average final compensation. Following the second year after the normal retirement date, A is 1.65 percent of the member's average final compensation. Following the third year after the normal retirement date, and for subsequent years, A is 1.68 percent of the member's average final compensation.

2. For creditable years of special risk service, A is:

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

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

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

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

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

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

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

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

3. For creditable years of Senior Management Service Class service after January 31, 1987, A is 2 percent;

4. For creditable years of Elected ~~State and County~~ Officers' Class service as a Supreme Court Justice, district court of appeal judge, circuit judge, or county court judge, A is $3\frac{1}{3}$ percent of the member's average final compensation, and for all other creditable service in such class, A is 3 percent of average final compensation;

(2) BENEFITS PAYABLE FOR DUAL NORMAL RETIREMENT AGES.—If 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 member of the Special Risk Class and a member of either the Regular Class, Senior Management Service Class, or Elected ~~State and County~~ Officers' Class, 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 that 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. Such benefit shall be calculated as follows:

(a) 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 shall be based on the member's 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 date precedes the normal retirement date of age 62 for a member of the Regular Class, Senior Management Service Class, or the Elected ~~State and County~~ Officers' Class, and age 55 for a member of the Special Risk Class, or age 52 if a Special Risk member has completed 25 years of creditable service in accordance with s. 121.021(29)(b)3.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(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, education paraprofessional, 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, education paraprofessionals, 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, education paraprofessional, 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 retire-

ment 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 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) with respect to 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.

(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. Participation in the DROP does not guarantee employment for the specified period of DROP.

(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 calendar months immediately following the date on which the member first reaches his or her normal retirement date or the date to which he or she is eligible to defer his or her election to participate as provided in subparagraph (a)2. However, a member who has reached normal retirement date prior to the effective date of the DROP shall be eligible to participate in the DROP for a period of time not to exceed 60 calendar months immediately following the effective date of the DROP, except a member of the Special Risk Class who has reached normal retirement date prior to the effective date of the DROP and whose total accrued value exceeds 75 percent of average final compensation as of his or her effective date of retirement shall be eligible to participate in the DROP for no more than 36 calendar months immediately following the effective date of 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. However, participation in the DROP does not alter the participant's employment status and such employee shall not be deemed retired from employment until his or her deferred resignation is effective and termination occurs as provided in s. 121.021(39).

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

a. An elected officer who reaches normal retirement date during a term of office may defer the election to participate in the DROP until the next succeeding term in that office. Such elected officer who exercises this option may participate in the DROP for up to 60 calendar months or a period of no longer than such succeeding term of office, whichever is less.

b. 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 sub-subparagraph (c)4.d.

c. 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 non-elected 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).

Section 7. Subsection (4) of section 121.122, Florida Statutes, 1998 Supplement, 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:

(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.

Reviser's note.—Amended pursuant to the directive in s. 17, ch. 98-413, Laws of Florida, to change "Elected State and County Officers' Class" to "Elected Officers' Class" wherever the same appears in chapter 121.

Approved by the Governor March 25, 1999.

Filed in Office Secretary of State March 25, 1999.