

## House Bill No. 2393

An act relating to retirement; amending s. 112.65, F.S.; providing that certain benefits under chapter 121, F.S., shall be considered supplemental benefits; amending s. 121.021, F.S.; redefining the term "system" with respect to the Florida Retirement System; designating ss. 121.011-121.45, F.S., as part I of chapter 121, F.S.; designating ss. 121.4501-121.571, F.S., as part II of chapter 121, F.S.; creating s. 121.4501, F.S.; directing the State Board of Administration to establish an optional defined contribution retirement program for members of the Florida Retirement System; providing definitions; providing for eligibility and retirement service credit; providing for participation and enrollment; providing for contributions; providing vesting requirements; providing benefits; providing for administration; providing for investment options or products; providing for performance review; providing for an education component; providing participant information requirements; providing that advisory committees shall provide advice and assistance; providing for federal requirements; providing an investment policy statement; providing a statement of fiduciary standards and responsibilities; providing for disability benefits; providing for social security and health insurance subsidy coverage; creating s. 121.571, F.S.; providing for contributions; amending ss. 121.021, 121.051, 121.0515, 121.052, 121.053, 121.081, 121.1115, 121.1122, 121.121, and 215.32, F.S.; providing that members employed in a regularly established position shall be vested after 6 years of creditable service; conforming to the act; amending s. 112.665, F.S.; correcting cross references to conform to the act; amending s. 121.091, F.S.; upgrading service credit for certain years for special risk members; providing funding for the benefit increase; providing a contingent contribution rate increase; amending s. 121.091, F.S.; reducing the service time required to qualify for disability benefits to 8 years; amending s. 112.363, F.S.; revising provisions relating to the retiree health insurance subsidy to include applicability to retirees under the optional retirement program; amending s. 121.055, F.S.; increasing the number of personnel that may be designated as Senior Management Service Class by local governments; requiring participation in the Senior Management Service Class by certain legal staff; allowing senior management optional annuity program benefits to be distributed through a direct rollover; providing for funding of the revision of the Florida Retirement System by this act; revising contribution rates as part of the funding process; providing implementation requirements for the State Board of Administration, the Department of Management Services, and participating employers; amending s. 121.031, F.S.; requiring an actuarial study of the retirement system at least annually; requiring the actuarial model to include a rate stabilization mechanism; defining the mechanism; requiring a report on the effects of 6-year vesting on the disability benefit and the health insurance subsidy; amending s. 121.021, F.S.; including certain community-based correctional probation officers within the Special Risk

Class of the Florida Retirement System; amending s. 121.0515, F.S.; specifying criteria for inclusion of community-based correctional probation officers in the Special Risk Class; providing for inclusion of probation and parole circuit and deputy circuit administrators in the Special Risk Class; including certain members of the system who are employed by the Department of Corrections or the Department of Children and Family Services for membership in the special risk class; providing exceptions; providing a finding of important state interest; directing the State Board of Administration to request an opinion from the Internal Revenue Service; providing future effect for certain provisions; providing a contingent effective date.

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

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

112.65 Limitation of benefits.—

(1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit or pension payable to a retiree who becomes a member of any retirement system or plan and who has not previously participated in such plan, on or after January 1, 1980, shall not exceed 100 percent of his or her average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments. For the purposes of this section, benefits accruing in individual participant accounts established under the Public Employee Optional Retirement Program established in part II of chapter 121 are considered supplemental benefits. As used in this section, the term “average final compensation” means the average of the member’s earnings over a period of time which the governmental entity has established by statute, charter, or ordinance.

Section 2. Subsection (3) of section 121.021, Florida Statutes, is 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:

(3) “System” means the general retirement system established by this chapter to be known and cited as the “Florida Retirement System,” including, but not limited to, the defined benefit retirement program administered under the provisions of part I of this chapter and the defined contribution retirement program known as the Public Employee Optional Retirement Program and administered under the provisions of part II of this chapter.”

Section 3. Chapter 121, Florida Statutes, is designated as part I of said chapter, and part II, consisting of sections 121.4501 through 121.571, is created to read:

121.4501 Public Employee Optional Retirement Program.—

(1) The Trustees of the State Board of Administration shall establish an optional defined contribution retirement program for members of the Florida Retirement System under which retirement benefits will be provided for eligible employees who elect to participate in the program. The benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through employee-directed investments, in accordance with s. 401(a) of the Internal Revenue Code and its related regulations. The employers shall contribute, as provided in this section and s. 121.571, toward the funding of such optional benefits.

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

(a) “Approved provider” or “provider” means a private sector company that is selected and approved by the state board to offer one or more investment products or services to the Public Employee Optional Retirement Program. Private sector companies include investment management companies, insurance companies, depositories, and mutual fund companies.

(b) “Department” means the Department of Management Services.

(c) “Division” means the Division of Retirement within the Department of Management Services.

(d) “Eligible employee” means an officer or employee, as defined in s. 121.021(11), who:

1. Is a member of, or is eligible for membership in, the Florida Retirement System;

2. Participates in, or is eligible to participate in, the Senior Management Service Optional Annuity Program as established under s. 121.055(6); or

3. Is eligible to participate in, but does not participate in, the State University System Optional Retirement Program established under s. 121.35 or the State Community College System Optional Retirement Program established under s. 121.051(2)(c).

The term does not include any renewed member of the Florida Retirement System, any member participating in the Deferred Retirement Option Program established under s. 121.091(13), or any employee participating in an optional retirement program established under s. 121.35 or s. 121.051(2)(c).

(e) “Employer” means an employer, as defined in s. 121.021(10), of an eligible employee.

(f) “Participant” means an eligible employee who elects to participate in the Public Employee Optional Retirement Program and enrolls in such optional program as provided in subsection (4).

(g) “Public Employee Optional Retirement Program,” “optional program” or “optional retirement program” means the alternative defined contribution retirement program established under this section.

(h) "State board" or "board" means the State Board of Administration.

(i) "Trustees" means Trustees of the State Board of Administration.

(j) "Vested" or "vesting" means the guarantee that a participant is eligible to receive a retirement benefit upon completion of the required years of service under the Public Employee Optional Retirement Program.

(3) ELIGIBILITY; RETIREMENT SERVICE CREDIT.—

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

(b) An eligible employee who is a member of the defined benefit retirement program of the Florida Retirement System at the time of his or her election to participate in the Public Employee Optional Retirement Program shall retain all retirement service credit earned under the defined benefit retirement program of the Florida Retirement System as credited under the system and shall be entitled to a deferred benefit upon termination, if eligible under the system. However, election to participate in the Public Employee Optional Retirement Program terminates the active membership of the employee in the defined benefit program of the Florida Retirement System, and the service of a participant in the Public Employee Optional Retirement Program shall not be creditable under the defined benefit retirement program of the Florida Retirement System for purposes of benefit accrual but shall be credited for purposes of vesting.

(c)1. Notwithstanding paragraph (b), each eligible employee who elects to participate in the Public Employee Optional Retirement Program and establishes one or more individual participant accounts under the optional program may elect to transfer to the optional program a sum representing the present value of the employee's accumulated benefit obligation under the defined benefit retirement program of the Florida Retirement System. Upon such transfer, all service credit previously earned under the defined benefit program of the Florida Retirement System shall be nullified for purposes of entitlement to a future benefit under the defined benefit program of the Florida Retirement System. A participant is precluded from transferring the accumulated benefit obligation balance from the defined benefit program upon the expiration of the period afforded to enroll in the optional program.

2. For purposes of this subsection, the present value of the member's accumulated benefit obligation is based upon the member's estimated creditable service and estimated average final compensation as of midnight of the day prior to the opening of the election window for the employee. The actuarial present value of the employee's accumulated benefit obligation shall be based on the following:

a. The discount rate and other relevant actuarial assumptions used to value the Florida Retirement System Trust Fund at the time the amount to

be transferred is determined, consistent with the factors provided in sub-subparagraphs b. and c.

b. A benefit commencement age, based on the member's estimated creditable service as of midnight on May 31, 2002. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of midnight on May 31, 2002:

(I) Age 62; or

(II) The age the member would attain if the member completed 30 years of service with an employer, assuming the member worked continuously from May 31, 2002, and disregarding any vesting requirement that would otherwise apply under the defined benefit program of the Florida Retirement System.

c. For members of the Special Risk Class and for members of the Special Risk Administrative Support Class entitled to retain special risk normal retirement date, the benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of midnight on May 31, 2002:

(I) Age 55; or

(II) The age the member would attain if the member completed 25 years of service with an employer, assuming the member worked continuously from May 31, 2002, and disregarding any vesting requirement that would otherwise apply under the defined benefit program of the Florida Retirement System.

d. The calculation shall disregard vesting requirements and early retirement reduction factors that would otherwise apply under the defined benefit retirement program.

3. For each participant who elects to transfer moneys from the defined benefit program to his or her account in the optional program, the division shall recompute the amount transferred under subparagraph 2. not later than 60 days after the actual transfer of funds based upon the participant's actual creditable service and actual final average compensation as of the initial date of participation in the optional program. If the recomputed amount differs from the amount transferred under subparagraph 2. by \$10 or more, the division shall:

a. Transfer, or cause to be transferred, from the Florida Retirement System Trust Fund to the participant's account in the optional program the excess, if any, of the recomputed amount over the previously transferred amount together with interest from the initial date of transfer to the date of transfer under this subparagraph, based upon 8 percent effective annual interest, compounded annually.

b. Transfer, or cause to be transferred, from the participant's account to the Florida Retirement System Trust Fund the excess, if any, of the previously transferred amount over the recomputed amount, together with inter-

est from the initial date of transfer to the date of transfer under this subparagraph, based upon 6 percent effective annual interest, compounded annually, pro rata based on the participant's allocation plan.

4. As directed by the participant, the board shall transfer or cause to be transferred the appropriate amounts to the designated accounts. The board shall establish transfer procedures by rule, but the actual transfer shall not be later than 30 days after the effective date of the member's participation in the optional program. Transfers are not commissionable or subject to other fees and may be in the form of securities or cash as determined by the state board. Such securities shall be valued as of the date of receipt in the participant's account.

5. If the board or the division receives notification from the United States Internal Revenue Service that this paragraph or any portion of this paragraph will cause the retirement system, or a portion thereof, to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply. Upon such notice, the state board and the division shall notify the presiding officers of the Legislature.

(4) PARTICIPATION; ENROLLMENT.—

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

a. Any such employee may elect to participate in the Public Employee Optional Retirement Program in lieu of retaining his or her membership in the defined benefit program of the Florida Retirement System. The election must be made in writing or by electronic means and must be filed with the department and the personnel officer of the employer within 90 days after June 1, 2002, or, in the case of an active employee who is on a leave of absence on June 1, 2002, within 90 days after the conclusion of the leave of absence. This election is irrevocable, except as provided in paragraph (e). Upon making such election, the employee shall be enrolled as a participant of the Public Employee Optional Retirement Program, the employee's membership in the Florida Retirement System shall be governed by the provisions of this part, and the employee's membership in the defined benefit program of the Florida Retirement System shall terminate. The employee's enrollment in the Public Employee Optional Retirement Program shall be effective the first day of the month for which a full month's employer contribution is made to the optional program.

b. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed 90 days is deemed to have elected to retain membership in the defined benefit program of the Florida Retirement System and the employee's option to elect to participate in the optional program is forfeited.

2. With respect to employees who become eligible to participate in the Public Employee Optional Retirement Program by reason of employment in a regularly established position with a state employer commencing after June 1, 2002:

a. Any such employee shall, by default, be enrolled in the defined benefit retirement program of the Florida Retirement System at the commencement of employment, and may, within 180 days after employment commences, elect to participate in the Public Employee Optional Retirement Program. The employee's election must be made in writing or by electronic means and must be filed with the personnel officer of the employer. The election to participate in the optional program is irrevocable, except as provided in paragraph (e).

b. If the employee files such election before the initial payroll is submitted for the employee, enrollment in the Public Employee Optional Retirement Program shall be effective on the first day of employment.

c. If the employee files such election within 180 days after employment commences, but after the initial payroll is submitted for the employee, enrollment in the optional program shall be effective on the first day of the month for which a full month's employer contribution is made to the optional program.

d. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed 180 days is deemed to have elected to retain membership in the defined benefit program of the Florida Retirement System and the employee's option to elect to participate in the optional program is forfeited.

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

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

a. Any such employee may elect to participate in the Public Employee Optional Retirement Program in lieu of retaining his or her membership in the defined benefit program of the Florida Retirement System. The election must be made in writing or by electronic means and must be filed with the department and the personnel officer of the employer within 90 days after September 1, 2002, or, in the case of an active employee who is on a leave of absence on September 1, 2002, within 90 days after the conclusion of the leave of absence. This election is irrevocable, except as provided in paragraph (e). Upon making such election, the employee shall be enrolled as a participant of the Public Employee Optional Retirement Program, the employee's membership in the Florida Retirement System shall be governed by the provisions of this part, and the employee's membership in the defined benefit program of the Florida Retirement System shall terminate. The employee's enrollment in the Public Employee Optional Retirement Program shall be effective the first day of the month for which a full month's employer contribution is made to the optional program.

b. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed 90 days is deemed to have elected to retain membership in the defined benefit program of the Florida Retirement System and the employee's option to elect to participate in the optional program is forfeited.

2. With respect to employees who become eligible to participate in the Public Employee Optional Retirement Program by reason of employment in a regularly established position with a district school board employer commencing after September 1, 2002:

a. Any such employee shall, by default, be enrolled in the defined benefit retirement program of the Florida Retirement System at the commencement of employment, and may, within 180 days after employment commences, elect to participate in the Public Employee Optional Retirement Program. The employee's election must be made in writing or by electronic means and must be filed with the personnel officer of the employer. The election to participate in the optional program is irrevocable, except as provided in paragraph (e).

b. If the employee files such election before the initial payroll is submitted for the employee, enrollment in the Public Employee Optional Retirement Program shall be effective on the first day of employment.

c. If the employee files such election within 180 days after employment commences, but after the initial payroll is submitted for the employee, enrollment in the optional program shall be effective on the first day of the month for which a full month's employer contribution is made to the optional program.

d. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed 180 days is deemed to have elected to retain membership in the defined benefit program of the Florida Retirement System and the employee's option to elect to participate in the optional program is forfeited.

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

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

a. Any such employee may elect to participate in the Public Employee Optional Retirement Program in lieu of retaining his or her membership in the defined benefit program of the Florida Retirement System. The election must be made in writing or by electronic means and must be filed with the department and the personnel officer of the employer within 90 days after December 1, 2002, or, in the case of an active employee who is on a leave of absence on December 1, 2002, within 90 days after the conclusion of the leave of absence. This election is irrevocable. Upon making such election, the

employee shall be enrolled as a participant of the Public Employee Optional Retirement Program, the employee's membership in the Florida Retirement System shall be governed by the provisions of this part, and the employee's membership in the defined benefit program of the Florida Retirement System shall terminate. The employee's enrollment in the Public Employee Optional Retirement Program shall be effective the first day of the month for which a full month's employer contribution is made to the optional program.

b. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed 90 days is deemed to have elected to retain membership in the defined benefit program of the Florida Retirement System and the employee's option to elect to participate in the optional program is forfeited.

2. With respect to employees who become eligible to participate in the Public Employee Optional Retirement Program by reason of employment in a regularly established position with a local employer commencing after December 1, 2002:

a. Any such employee shall, by default, be enrolled in the defined benefit retirement program of the Florida Retirement System at the commencement of employment, and may, within 180 days after employment commences, elect to participate in the Public Employee Optional Retirement Program. The employee's election must be made in writing or by electronic means and must be filed with the personnel officer of the employer. The election to participate in the optional program is irrevocable, except as provided in paragraph (e).

b. If the employee files such election before the initial payroll is submitted for the employee, enrollment in the Public Employee Optional Retirement Program shall be effective on the first day of employment.

c. If the employee files such election within 180 days after employment commences, but after the initial payroll is submitted for the employee, enrollment in the optional program shall be effective on the first day of the month for which a full month's employer contribution is made to the optional program.

d. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed 180 days is deemed to have elected to retain membership in the defined benefit program of the Florida Retirement System and the employee's option to elect to participate in the optional program is forfeited.

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

(d) Contributions available for self-direction by a participant who has not selected one or more specific investment products shall be allocated as prescribed by the board. The third-party administrator shall notify any such participant at least quarterly that the participant should take an affirma-

tive action to make an asset allocation among the optional program products.

(e) After the period during which an eligible employee had the choice to elect the defined benefit program or the Public Employee Optional Retirement Program, the employee shall have one opportunity, at the employee's discretion, to choose to move from the defined benefit program to the Public Employee Optional Retirement Program or from the Public Employee Optional Retirement Program to the defined benefit program. This paragraph shall be contingent upon approval from the Internal Revenue Service for including the choice described herein within the programs offered by the Florida Retirement System.

1. If the employee chooses to move to the Public Employee Optional Retirement Program, the applicable provisions of this section shall govern the transfer.

2. If the employee chooses to move to the defined benefit program, the employee must transfer from his or her Public Employee Optional Retirement Program account and from other employee moneys as necessary, a sum representing all contributions that would have been made to the defined benefit plan for that employee and the actual return that would have been earned on those contributions had they been invested in the defined benefit program.

(5) CONTRIBUTIONS.—

(a) Each employer shall contribute on behalf of each participant in the Public Employee Optional Retirement Program an amount based on a percentage of the employee's monthly compensation as set forth in s. 121.571. The state board, acting as plan fiduciary, shall ensure that all plan assets are held in a trust, pursuant to s. 401 of the Internal Revenue Code. The employer shall forward all contributions under this program to the third-party administrator. The fiduciary shall ensure that said contributions are allocated as follows:

1. The portion earmarked for participant accounts shall be used to purchase interests in the appropriate investment vehicles for the accounts of each participant as specified by the participant, or in accordance with paragraph (4)(d).

2. The portion earmarked for administrative and educational expenses shall be transferred to the board.

3. The portion earmarked for disability benefits shall be transferred to the department.

(b) Employers are responsible for notifying participants regarding maximum contribution levels permitted under the Internal Revenue Code. If a participant contributes to any other tax-deferred plan, he or she is responsible for ensuring that total contributions made to the optional program and to any other such plan do not exceed federally permitted maximums.

(6) VESTING REQUIREMENTS.—

(a)1. With respect to employer contributions paid on behalf of the participant to the Public Employee Optional Retirement Program, plus interest and earnings thereon and less investment fees and administrative charges, a participant shall be vested after completing 1 work year, as defined in s. 121.021(54) with an employer, including any service while the participant was a member of the defined benefit retirement program or an optional retirement program authorized under s. 121.051(2)(c) or s. 121.055(6).

2. If the participant terminates employment prior to satisfying the vesting requirements, the nonvested accumulation shall be transferred from the participant's accounts to the state board for deposit in the suspense account of the Public Employee Optional Retirement Program Trust Fund of the board. If the terminated participant is reemployed as an eligible employee within 5 years, the state board shall transfer to the participant's account any amount of the moneys previously transferred from the participant's accounts to the Public Employee Optional Retirement Program Trust Fund, plus interest calculated at 3.0 percent per annum, calculated from the date of transfer to the date of reemployment.

(b)1. A participant shall be vested in the amount transferred from the defined benefit program, plus interest and earnings thereon and less administrative charges and investment fees, upon meeting the service requirements for the participant's membership class as set forth in s. 121.021(29). The third-party administrator shall account for such amounts for each participant. The division shall notify the participant and the third-party administrator when the participant has satisfied the vesting period for Florida Retirement System purposes.

2. If the participant terminates employment prior to satisfying the vesting requirements, the nonvested accumulation shall be transferred from the participant's accounts to the state board for deposit in the suspense account of the Public Employee Optional Retirement Program Trust Fund of the board. If the terminated participant is reemployed as an eligible employee within 5 years, the state board shall transfer to the participant's account any amount of the moneys previously transferred from the participant's accounts to the Public Employee Optional Retirement Program Trust Fund, plus interest calculated at 6.0 percent per annum, calculated from the date of transfer to the date of reemployment.

(c) Any nonvested accumulations transferred from a participant's account to the suspense account shall be forfeited by the participant if the participant is not reemployed as an eligible employee within 5 years after termination.

(7) BENEFITS.—Under the Public Employee Optional Retirement Program:

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

(b) Benefits shall accrue in individual accounts that are participant-directed, portable, and funded by employer contributions and earnings thereon.

(c) Benefits shall be payable in accordance with the following terms and conditions:

1. To the extent vested, benefits shall be payable only to a participant, or to his or her beneficiaries as designated by the participant.

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

3. To begin receiving the benefits, the participant must be terminated from all employment with all Florida Retirement System employers, as provided in s. 121.021(39), or the participant must be deceased. If a participant elects to receive his or her benefits upon termination of employment, the participant must submit a written application to the third-party administrator indicating his or her preferred distribution date and selecting an authorized method of distribution as provided in paragraph (d). The participant may defer receipt of benefits until he or she chooses to make such application, subject to federal requirements.

4. In the event of a participant's death, moneys accumulated by, or on behalf of, the participant, less withholding taxes remitted to the Internal Revenue Service, shall be distributed to the participant's designated beneficiary or beneficiaries, or to the participant's estate, as if the participant retired on the date of death, as provided in paragraph (e). No other death benefits shall be available for survivors of participants under the Public Employee Optional Retirement Program, except for such benefits, or coverage for such benefits, as are separately afforded by the employer, at the employer's discretion.

(d) Upon receipt by the third-party administrator of a properly executed application for distribution of benefits, the total accumulated benefit shall be payable to the participant, as:

1. A lump-sum distribution to the participant;

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

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

(e) Survivor benefits shall be payable as:

1. A lump-sum distribution payable to the beneficiaries, or to the deceased participant's estate;

2. An eligible rollover distribution on behalf of the surviving spouse of a deceased participant, whereby all accrued benefits, plus interest and invest-

ment earnings, are paid from the deceased participant's account directly to the custodian of an individual retirement account or an individual retirement annuity, as described in s. 402(c)(9) of the Internal Revenue Code, on behalf of the surviving spouse; or

3. A partial lump-sum payment whereby a portion of the accrued benefit is paid to the deceased participant's surviving spouse or other designated beneficiaries, less withholding taxes remitted to the Internal Revenue Service, and the remaining amount is transferred directly to the custodian of an individual retirement account or an individual retirement annuity, as described in s. 402(c)(9) of the Internal Revenue Code, on behalf of the surviving spouse. The proportions must be specified by the participant or the surviving beneficiary.

This paragraph does not abrogate other applicable provisions of state or federal law providing for payment of death benefits.

(f) The benefits payable to any person under the Public Employee Optional Retirement Program, and any contributions accumulated under such program, are not subject to assignment, execution, attachment, or any legal process, 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.

#### (8) ADMINISTRATION OF PROGRAM.—

(a) The Public Employee Optional Retirement Program shall be administered by the state board and affected employers. The board shall adopt rules establishing the role and responsibilities of affected state, local government, and education-related employers, the state board, the department, and third-party contractors in administering the Public Employee Optional Retirement Program. The department shall adopt rules necessary to implement the optional program in coordination with the defined benefit retirement program and the disability benefits available under the optional program.

(b)1. The state board shall select and contract with one third-party administrator to provide administrative services. With the approval of the state board, the third-party administrator may subcontract with other organizations or individuals to provide components of the administrative services. As a cost of administration, the board may compensate any such contractor for its services, in accordance with the terms of the contract, as is deemed necessary or proper by the board. The third-party administrator may not be an approved provider or be affiliated with an approved provider.

2. Administrative services include, but are not limited to, services relating to consolidated billing; individual and collective recordkeeping and accounting; asset purchase, control, and safekeeping; and direct disbursement of funds to and from the third-party administrator, the division, the board, employers, participants, approved providers, and beneficiaries.

3. The state board shall select and contract with one or more organizations to provide educational services. With approval of the board, the organi-

zations may subcontract with other organizations or individuals to provide components of the educational services. As a cost of administration, the board may compensate any such contractor for its services in accordance with the terms of the contract, as is deemed necessary or proper by the board. The education organization may not be an approved provider or be affiliated with an approved provider.

4. Educational services shall be designed by the board and department to assist employers, eligible employees, participants, and beneficiaries in order to maintain compliance with United States Department of Labor regulations under section 404(c) of the Employee Retirement Income Security Act of 1974 and to assist employees in their choice of defined benefit or defined contribution retirement alternatives. Educational services include, but are not limited to, disseminating educational materials; providing retirement planning education; explaining the differences between the defined benefit retirement plan and the defined contribution retirement plan; and offering financial planning guidance on matters such as investment diversification, investment risks, investment costs, and asset allocation. An approved provider may also provide educational information, including retirement planning and investment allocation information concerning its products and services.

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

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

b. The administrator's demonstrated experience in providing daily valued recordkeeping to defined contribution plans.

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

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

e. The administrator's ability to interact with the participants, the employers, the board, the division, and the providers; the means by which participants may access account information, direct investment of contributions, make changes to their accounts, transfer moneys between available investment vehicles, and transfer moneys between investment products; and any fees that apply to such activities.

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

g. The recommendations of the Public Employee Optional Retirement Program Advisory Committee established in subsection (12).

2. In evaluating and selecting an educational provider, the board shall establish criteria under which it shall consider the relative capabilities and qualifications of each proposed educational provider. In developing such criteria, the board shall consider:

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

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

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

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

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

f. The recommendations of the Public Employee Optional Retirement Program Advisory Committee established in subsection (12).

3. The establishment of the criteria shall be solely within the discretion of the board.

(d) The board shall develop the form and content of any contracts to be offered under the Public Employee Optional Retirement Program. In developing its contracts, the board must consider:

1. The nature and extent of the rights and benefits to be afforded in relation to the required contributions under the program.

2. The suitability of the rights and benefits to be afforded and the interests of employers in the recruitment and retention of eligible employees.

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

2. The department may contract with consultants for professional services, including legal, consulting, accounting, and actuarial services, deemed necessary to implement and administer the optional program in coordination with the defined benefit program of the Florida Retirement

System. The department, in coordination with the board, may enter into a contract with the third-party administrator in order to coordinate services common to the various programs within the Florida Retirement System.

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

(g) The board shall resolve any conflict between the third-party administrator and an approved provider when such conflict threatens the implementation or administration of the program or the quality of services to employees and may resolve any other conflicts.

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

(a) The board shall develop policy and procedures for selecting, evaluating, and monitoring the performance of approved providers and investment products to which employees may direct retirement contributions under the program. In accordance with such policy and procedures, the board shall designate and contract for a number of investment products as determined by the board. The board shall select one or more providers who offer multiple investment products when such an approach is determined by the board to afford value to the participants otherwise not available through individual investment products. The board shall review and manage all educational materials, contract terms, fee schedules, and other aspects of the approved provider relationships to ensure that no provider is unduly favored or penalized by virtue of its status within the plan.

(b) The board shall consider investment options or products it considers appropriate to give participants the opportunity to accumulate retirement benefits, subject to the following:

1. The Public Employee Optional Retirement Program must offer a diversified mix of low-cost investment products that span the risk-return spectrum.

2. Investment options or products offered by the group of approved providers may include mutual funds, group annuity contracts, individual retirement annuities, interests in trusts, collective trusts, separate accounts, and other such financial instruments.

3. The board shall not contract with any provider that imposes a front-end, back-end, contingent, or deferred sales charge, or any other fee that limits or restricts the ability of participants to select any investment product available in the optional program.

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

1. Experience in the United States providing retirement products and related financial services under defined contribution retirement plans.

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

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

4. Compliance with the Internal Revenue Code.

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

6. The provider company's ability and willingness to coordinate its activities with Florida Retirement System employers, the department, and the board, and to supply to such employers, the department, and the board the information and data they require.

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

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

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

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

(d) As a condition of offering any investment option or product in the optional retirement program, the approved provider must agree to make the investment product or service available under the most beneficial terms offered to any other customer, subject to approval by the Trustees of the State Board of Administration.

(e) The board shall regularly review the performance of each approved provider and product and related organizational factors to ensure continued compliance with established selection criteria and with board policy and procedures. Providers and products may be terminated subject to contract

provisions. The board shall adopt procedures to transfer account balances from terminated products or providers to other products or providers in the optional program.

(10) EDUCATION COMPONENT.—

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

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

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

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

2. The features of and differences between the defined benefit program and the defined contribution program, both generally and specifically, as those differences may affect the member.

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

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

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

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

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

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

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

1. Rights and conditions of membership.

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

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

4. Significant program changes.

5. Contribution rates and program funding status.

6. Planning for retirement.

(e) Descriptive materials must be prepared under the assumption that the employee is an unsophisticated investor, and all materials used in the education component must be approved by the state board prior to dissemination.

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

(g) Funding for education of new employees may reflect administrative costs to the optional program and the defined benefit program.

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

(a) Indicate the participant's investment options.

(b) State the market value of the account at the close of the current quarter and previous quarter.

(c) Show account gains and losses for the period and changes in account accumulation unit values for the period.

(d) Itemize account contributions for the quarter.

(e) Indicate any account changes due to adjustment of contribution levels, reallocation of contributions, balance transfers, or withdrawals.

(f) Set forth any fees, charges, penalties, and deductions that apply to the account.

(g) Indicate the amount of the account in which the participant is fully vested and the amount of the account in which the participant is not vested.

(h) Indicate each investment product's performance relative to an appropriate market benchmark.

The third-party administrator shall provide quarterly and annual summary reports to the board and any other reports requested by the department or the board. In any solicitation or offer of coverage under an optional retirement program, a provider company shall be governed by the contract readability provisions of s. 627.4145, notwithstanding s. 627.4145(6)(c). In addition, all descriptive materials must be prepared under the assumption that the participant is an unsophisticated investor. Provider companies must maintain an internal system of quality assurance, have proven functional systems that are date-calculation compliant, and be subject to a due-diligence inquiry that proves their capacity and fitness to undertake service responsibilities.

(12) ADVISORY COMMITTEES TO PROVIDE ADVICE AND ASSISTANCE.—The Investment Advisory Council and the Public Employee Optional Retirement Program Advisory Committee shall assist the board in implementing and administering the Public Employee Optional Retirement Program.

(a) The Investment Advisory Council, created pursuant to s. 215.444, shall review the board's initial recommendations regarding the criteria to be used in selecting and evaluating approved providers and investment products. The council may provide comments on the recommendations to the board within 45 days after receiving the initial recommendations. The board shall make the final determination as to whether any investment provider or product, any contractor, or any and all contract provisions shall be approved for the program.

(b)1. The Public Employee Optional Retirement Program Advisory Committee shall be composed of seven members. The President of the Senate shall appoint two members, the Speaker of the House of Representatives shall appoint two members, the Governor shall appoint one member, the Treasurer shall appoint one member, and the Comptroller shall appoint one member. The members of the advisory committee shall elect a member as chair. The appointments shall be made by September 1, 2000, and the committee shall meet to organize by October 1, 2000. The initial appointments shall be for a term of 24 months. Each appointing authority shall fill any vacancy occurring among its appointees for the remainder of the original term.

2. The advisory committee shall make recommendations on the selection of the third-party administrator, the education providers, and the investment products and providers. The committee's recommendations on the third-party administrator must be forwarded to the Trustees of the State

Board of Administration by January 1, 2001. The recommendations on the education providers must be forwarded to the trustees by April 1, 2001.

3. The advisory committee's recommendations and activities shall be guided by the best interests of the employees, considering the interests of employers, and the intent of the Legislature in establishing the Public Employee Optional Retirement Program.

4. The staff of the state board and the department shall assist the advisory committee.

(13) FEDERAL REQUIREMENTS.—

(a) Provisions of this section shall be construed, and the Public Employee Optional Retirement Program shall be administered, so as to comply with the Internal Revenue Code, 26 U.S.C., and specifically with plan qualification requirements imposed on governmental plans under s. 401(a) of the Internal Revenue Code.

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

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

(14) INVESTMENT POLICY STATEMENT.—

(a) Investment products and approved providers selected for the Public Employee Optional Retirement Program shall conform with the Public Employee Optional Retirement Program Investment Policy Statement, herein referred to as the "statement," as developed and approved by the Trustees of the State Board of Administration. The statement must include, among other items, the investment objectives of the Public Employee Optional Retirement Program, manager selection and monitoring guidelines, and performance measurement criteria. As required from time to time, the executive director of the state board may present recommended changes in the statement to the board for approval.

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

(15) STATEMENT OF FIDUCIARY STANDARDS AND RESPONSIBILITIES.—

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

(b) If a participant or beneficiary of the Public Employee Optional Retirement Program exercises control over the assets in his or her account, as determined by reference to regulations of the United States Department of Labor under section 404(c) of the Employee Retirement Income Security Act of 1974 and all applicable laws governing the operation of the program, no program fiduciary shall be liable for any loss to a participant's or beneficiary's account which results from such participant's or beneficiary's exercise of control.

(16) DISABILITY BENEFITS.—For any participant of the optional retirement program who becomes totally and permanently disabled, as defined in s. 121.091(4)(b), the participant shall be entitled to receive those moneys that have accrued in his or her participant account. It is the intent of the Legislature to design a disability benefit for participants of the optional program similar to those disability benefits afforded defined benefit program members. The department is directed to study the potential options of such coverage, including self-insurance and commercial coverage, the alternative methods of administering such benefits, and the fiscal impacts on the employees and employers, and to make recommendations to the Legislature by January 15, 2001.

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

(18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and employees who are participants of the optional program shall be eligible to receive the retiree health insurance subsidy, subject to the provisions of s. 112.363.

121.571 Contributions.—Contributions to the Public Employee Optional Retirement Program shall be made as follows:

(1) CONTRIBUTION RATES GENERALLY.—The contributions established in this section shall fund the Public Employee Optional Retirement Program and shall be paid by each participant's employer to the third-party administrator based on the class membership of the participant. The contributions are stated as a percentage of each participant's gross compensation for the calendar month. A change in a contribution rate is effective the first day of the month for which a full month's employer contribution is made on or after the beginning date of the change. Contribution rates may be modified by general law.

(2) CONTRIBUTIONS TO PARTICIPANT ACCOUNTS.—Employer and participant contributions to participant accounts shall be accounted for separately. Interest and investment earnings on employer contributions shall accrue on a tax-deferred basis until proceeds are distributed. Pursuant thereto:

(a) All contributions made on behalf of a participant pursuant to this subsection shall be transferred by the employer to the third-party administrator for deposit in the participant's account.

(b) Retirement contributions for Regular Class members of the optional retirement plan are as follows:

<u>Dates of Contribution Rate Changes</u>	<u>Employers</u>
<u>Effective July 1, 2002:</u>	<u>9.0%</u>

(c) Retirement contributions for Special Risk Class members of the optional retirement plan are as follows:

<u>Dates of Contribution Rate Changes</u>	<u>Employers</u>
<u>Effective July 1, 2002:</u>	<u>20.0%</u>

(d) Retirement contributions for Special Risk Administrative Support Class members of the optional retirement plan are as follows:

<u>Dates of Contribution Rate Changes</u>	<u>Employers</u>
<u>Effective July 1, 2002:</u>	<u>11.35%</u>

(e) Retirement contributions for Elected Officers' Class members of the optional retirement plan are as follows:

<u>Dates of Contribution Rate Changes</u>	<u>Employers</u>
<u>Effective July 1, 2002:</u>	
<u>Legislators</u>	<u>13.40%</u>
<u>Governor, Lt. Governor, Cabinet Officers</u>	<u>13.40%</u>
<u>State Attorneys, Public Defenders</u>	<u>13.40%</u>

<u>Dates of Contribution</u> <u>Rate Changes</u>	<u>Employers</u>
<u>Justices, Judges</u>	<u>18.90%</u>
<u>County Elected Officers</u>	<u>16.20%</u>

(f) Retirement contributions for Senior Management Service Class members of the optional retirement plan are as follows:

<u>Dates of Contribution</u> <u>Rate Changes</u>	<u>Employers</u>
<u>Effective July 1, 2002:</u>	<u>10.95%</u>

(3) CONTRIBUTIONS TO DISABILITY ACCOUNT.—

(a) All contributions made on behalf of a participant pursuant to this subsection shall be transferred by the employer to the third-party administrator for deposit in the Public Employee Disability Trust Fund administered by the Division of Retirement. Such contributions, less any fees or charges authorized by the Legislature to offset the costs of administering the disability component of the optional retirement program, shall be used to provide disability coverage for participants in the optional retirement program.

(b) Disability contributions for Regular Class members of the optional retirement plan are as follows:

<u>Dates of Contribution</u> <u>Rate Changes</u>	<u>Employers</u>
<u>Effective July 1, 2002:</u>	<u>0.39%</u>

(c) Disability contributions for Special Risk Class members of the optional retirement plan are as follows:

<u>Dates of Contribution</u> <u>Rate Changes</u>	<u>Employers</u>
<u>Effective July 1, 2002:</u>	<u>1.25%</u>

(d) Disability contributions for Special Risk Administrative Support Class members of the optional retirement plan are as follows:

<u>Dates of Contribution</u> <u>Rate Changes</u>	<u>Employers</u>
<u>Effective July 1, 2002:</u>	<u>0.73%</u>

(e) Disability contributions for Elected Officers' Class members of the optional retirement plan are as follows:

<u>Dates of Contribution Rate Changes</u>	<u>Employers</u>
<u>Effective July 1, 2002:</u>	
<u>Legislators</u>	<u>0.61%</u>
<u>Governor, Lt. Governor, Cabinet Officers</u>	<u>0.61%</u>
<u>State Attorneys, Public Defenders</u>	<u>0.61%</u>
<u>Justices, Judges</u>	<u>1.45%</u>
<u>County Elected Officers</u>	<u>0.86%</u>

(f) Disability contributions for Senior Management Service Class members of the optional retirement plan are as follows:

<u>Dates of Contribution Rate Changes</u>	<u>Employers</u>
<u>Effective July 1, 2002:</u>	<u>0.50%</u>

(4) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under this section shall be in addition to employer and member contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund as provided in s. 121.071.

(5) ADMINISTRATIVE AND EDUCATIONAL CONTRIBUTIONS.—Effective June 1, 2002, the contribution rate for each employer shall be 0.1 percent on behalf of each participant to fund the administrative and educational expenses of the optional program. All contributions made on behalf of a participant pursuant to this subsection shall be transferred to the third-party administrator for deposit in the board's administrative fund.

(6) DEDUCTIONS.—The board or the third-party administrator may deduct reasonable fees and apply appropriate charges to participant accounts. Payments for third-party administrative or educational expenses shall be made only pursuant to the terms of the approved contracts for such services. In no event shall administrative and educational expenses exceed the portion of employer contributions earmarked for such expenses pursuant to this section, except for reasonable administrative charges assessed against participant accounts of persons for whom no employer contributions are made during the year. Investment management fees shall be deducted from the gross returns earned by each authorized investment product or approved provider, pursuant to the terms of the contract between the provider and the board.

(7) PAYMENT AND DISTRIBUTION OF CONTRIBUTIONS.—Contributions made pursuant to this section shall be paid by the employer to the third-party administrator by electronic funds transfer no later than the 5th day of the month immediately following the month during which the payroll period ended. The board and the third-party administrator shall ensure that the contributions are distributed to the appropriate trust funds or participant accounts in a timely manner.

Section 4. Effective July 1, 2001, subsections (29) and (45) of section 121.021, Florida Statutes, 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:

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

(a) If a Regular Class member, the member:

1. Completes ~~6~~ 10 or more years of creditable service and attains age 62; or

2. Completes 30 years of 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.

(b) If a Special Risk Class member, the member:

1. Completes ~~6~~ 10 or more years of creditable service in the Special Risk Class and attains age 55;

2. Completes 25 years of creditable service in the Special Risk Class, regardless of age; or

3. Completes 25 years of creditable service and attains age 52, which service may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system and the remaining years are in the Special Risk Class.

(c) If a Senior Management Service Class member, the member:

1. Completes ~~6~~ 7 years of creditable service in the Senior Management Service 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.

(d) If an Elected Officers’ Class member, the member:

1. Completes ~~6~~ 8 years of creditable service in the Elected 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.”

(45)(a) “Vested” or “vesting” means the guarantee that a member is eligible to receive a future retirement benefit upon completion of the required

years of creditable service for the employee's class of membership, even though the member may have terminated covered employment before reaching normal or early retirement date. Being vested does not entitle a member to a disability benefit. Provisions governing entitlement to disability benefits are set forth under s. 121.091(4) based on a disability caused by an injury or disease that occurs after termination of covered employment.

(b) Effective July 1, 2001, a 6-year vesting requirement shall be implemented for the defined benefit program of the Florida Retirement System. Pursuant thereto:

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

2. Any member not employed in a regularly established position on July 1, 2001, shall be deemed vested upon completion of 6 years of creditable service, provided that such member is employed in a covered position for at least 1 work year after July 1, 2001. However, no member shall be required to complete more years of creditable service than would have been required for that member to vest under retirement laws in effect before July 1, 2001.

Section 5. Paragraph (a) of subsection (2) of section 121.051, Florida Statutes, is amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(a)1. Any officer or employee who is a member of an existing system, except any officer or employee of any nonprofit professional association or corporation, may elect, if eligible, to become a member of this system at any time between April 15, 1971, and June 1, 1971, inclusive, by notifying his or her employer in writing of the desire to transfer membership from the existing system to this system. Any officer or employee who was a member of an existing system on December 1, 1970, and who did not elect to become a member of this system shall continue to be covered under the existing system subject to the provisions of s. 121.045. A person who has retired under any state retirement system shall not be eligible to transfer to the Florida Retirement System created by this chapter subsequent to such retirement. Any officer or employee who, prior to July 1, 1947, filed a written rejection of membership in a state retirement system and who continues employment without participating in the Florida Retirement System may withdraw the rejection in writing and, if otherwise eligible, participate in the Florida Retirement System and purchase prior service in accordance with this chapter. Any former member of an existing system who was permitted to transfer to the Florida Retirement System while employed by the University Athletic Association, Inc., a nonprofit association connected with the University of Florida, during this or subsequent transfer periods, contrary to the provisions of this paragraph, is hereby confirmed as a member of the Florida Retirement System, the provisions of this paragraph to the contrary notwithstanding. Any officer or employee of the University Athletic Association, Inc., employed prior to July 1, 1979, who was a member of the

Florida Retirement System and who chose in writing on a University Athletic Association Plan Participation Election form, between July 1, 1979, and March 31, 1980, inclusively, to terminate his or her participation in the Florida Retirement System shall hereby have such termination of participation confirmed and declared irrevocable retroactive to the date Florida Retirement System retirement contributions ceased to be reported for such officer or employee. The following specific conditions shall apply to any such officer or employee whose participation was so terminated: The officer or employee shall retain all creditable service earned in the Florida Retirement System through the month that retirement contributions ceased to be reported and no creditable service shall be earned after such month; the officer or employee shall not be eligible for disability retirement or death in line of duty benefits if such occurred after the date that participation terminated; and, the officer or employee may participate in the Florida Retirement System in the future only if employed by a participating employer in a regularly established position.

2. Any member transferring from the existing system under chapter 238 shall retain rights to survivor benefits under that chapter through November 30, 1975, or until fully insured for disability benefits under social security, whichever is the earliest date, and thereafter no such rights shall exist.

3. Any officer or employee who is a member of an existing system on April 15, 1972, and who was eligible to transfer to this system under the provisions of subparagraph 1., but who elected to remain in the existing system, may elect, if eligible under the Social Security Act, 42 U.S.C. s. 418(d)(6)(F), to become a member of this system at any time between April 15, 1972, and June 30, 1972, inclusive, by notifying his or her employer in writing of the desire to transfer membership from an existing system to this system. Such transfer shall be subject to the following conditions:

a. All persons electing to transfer to the Florida Retirement System under this subparagraph shall be transferred on July 1, 1972, and shall thereafter be subject to the provisions of the Florida Retirement System retroactively to November 30, 1970, and at retirement have their benefits calculated in accordance with the provisions of s. 121.091.

b. Social security coverage incidental to such elective membership in the Florida Retirement System shall be effective November 30, 1970, and all amounts required from a member for retroactive social security coverage shall, at the time such election is made, be deducted from the individual account of the member, and the difference between the amount remaining in the individual account of such member and the total amount which such member would have contributed had he or she become a member of the Florida Retirement System on November 30, 1970, shall be paid into the system trust fund and added to the member's individual account prior to July 1, 1975, or by his or her date of retirement, if earlier. Interest at the rate of 8 percent per annum, compounded annually until paid, shall be charged on any balance remaining unpaid on said date.

c. There is appropriated out of the system trust fund into the Social Security Contribution Trust Fund the amount required by federal laws and

regulations to be contributed with respect to social security coverage for the years after November 30, 1970, of the members of an existing system who transfer to the Florida Retirement System in accordance with this subparagraph and who qualify for retroactive social security coverage. The amount paid from this appropriation with respect to the employees of any employer shall be charged to the employing agency. There shall be credited against this charge the difference between the matching contributions actually made for the affected employees from November 30, 1970, to June 30, 1972, and the amount of matching contributions that would have been required under the Florida Retirement System.

d. The net amounts charged the employing agencies for employees transferring to the Florida Retirement System under this subparagraph shall be paid to the system trust fund prior to July 1, 1975. Interest at the rate of 8 percent per annum, compounded annually until paid, shall be charged on any balance remaining unpaid on said date.

e. The administrator shall request such modification of the state's agreement with the Social Security Administration, or any referendum required under the Social Security Act governing social security coverage, as may be required to implement the provisions of this law. Retroactive social security coverage for service with an employer prior to November 30, 1970, shall not be provided for any member who was not covered under the agreement as of November 30, 1970.

4. Any officer or employee who was a member of an existing system on December 1, 1970, and who is still a member of an existing system, except any officer or employee of any nonprofit professional association or corporation, may elect, if eligible, to become a member of this system at any time between September 1, 1974, and November 30, 1974, inclusive, by notifying his or her employer in writing of the desire to transfer membership from the existing system to this system. This decision to transfer or not to transfer shall become irrevocable on November 30, 1974. All members electing to transfer during the transfer period shall become members of the Florida Retirement System on January 1, 1975, and shall be subject to the provisions of the Florida Retirement System on and after that date. Any officer or employee who was a member of an existing system on December 1, 1970, and who does not elect to become a member of this system shall continue to be covered under the existing system, subject to the provisions of s. 121.045. Any member transferring from the Teachers' Retirement System of Florida under chapter 238 to the Florida Retirement System on January 1, 1975, shall retain rights to survivor benefits under chapter 238 from January 1, 1975, through December 31, 1979, or until fully insured for disability benefits under the Social Security Act, whichever is the earliest date, and thereafter no such rights shall exist.

5.a. Any officer or employee who was a member of an existing system on December 1, 1970, and who is still a member of an existing system, except any officer or employee of any nonprofit professional association or corporation, may elect, if eligible, to become a member of this system at any time between January 2, 1982, and May 31, 1982, inclusive, by notifying his or her employer in writing of the desire to transfer membership from the

existing system to this system. This decision to transfer or not to transfer shall become irrevocable on May 31, 1982. All members electing to transfer during the transfer period shall become members of the Florida Retirement System on July 1, 1982, and shall be subject to the provisions of the Florida Retirement System on and after that date. Any officer or employee who was a member of an existing system on December 1, 1970, and who does not elect to become a member of this system shall continue to be covered under the existing system, subject to the provisions of s. 121.045. Any member transferring from the Teachers' Retirement System under chapter 238 to the Florida Retirement System on January 1, 1979, shall retain rights to survivor benefits under chapter 238 from January 1, 1979, through December 31, 1983, or until fully insured for disability benefits under the federal Social Security Act, whichever is the earliest date, and thereafter no such rights shall exist. Any such member transferring to the Florida Retirement System on July 1, 1982, shall retain rights to survivor benefits under chapter 238 from July 1, 1982, through June 30, 1987, or until fully insured for disability benefits under the federal Social Security Act, whichever is the earliest date, and thereafter no such rights shall exist.

b. Any deficit, as determined by the state actuary, accruing to the Survivors' Benefit Trust Fund of the Teachers' Retirement System and resulting from the passage of chapter 78-308, Laws of Florida, and chapter 80-242, Laws of Florida, shall become an obligation of the Florida Retirement System Trust Fund.

6. Any active member of an existing system who was not employed in a covered position during a time when transfer to the Florida Retirement System was allowed as described in rule 22B-1.004(2)(a), Florida Administrative Code, or as provided in paragraph (1)(c) of this section, may elect, if eligible, to become a member of this system at any time between January 1, 1991, and May 29, 1991, inclusive, by notifying his or her employer in writing of the desire to transfer membership from the existing system to this system. The decision to transfer or not to transfer shall become irrevocable on May 29, 1991. Failure to notify the employer shall result in compulsory membership in the existing system. All members electing to transfer during the transfer period shall become members of the Florida Retirement System on July 1, 1991, and shall be subject to the provisions of the Florida Retirement System on and after that date. Any member so transferring from the existing system under chapter 238 to the Florida Retirement System on July 1, 1991, shall retain rights to survivor benefits under that chapter from July 1, 1991, through June 30, 1996, or until fully insured for benefits under the federal Social Security Act, whichever is the earliest date, and thereafter no such rights shall exist.

Section 6. Effective July 1, 2001, paragraph (a) of subsection (7) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership; criteria; designation and removal of classification; credits for past service and prior service; retention of special risk normal retirement date.—

(7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE.—

(a) A special risk member who is moved or reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position with any law enforcement, firefighting, correctional, or emergency medical care agency under the Florida Retirement System, shall participate in the Special Risk Administrative Support Class and shall earn credit for such service at the same percentage rate as that earned by a regular member. Notwithstanding the provisions of subsection (4), service in such an administrative support position shall, for purposes of s. 121.091, apply toward satisfaction of the special risk normal retirement date, as defined in s. 121.021(29)(b), provided that, while in such position, the member remains certified as a law enforcement officer, firefighter, correctional officer, emergency medical technician, or paramedic; remains subject to reassignment at any time to a position qualifying for special risk membership; and completes an aggregate of 6 10 or more years of service as a designated special risk member prior to retirement.

Section 7. Effective July 1, 2001, subsection (8) and paragraphs (b) and (c) of subsection (12) of section 121.052, Florida Statutes, are amended to read:

121.052 Membership class of elected officers.—

(8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member of the Elected 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).

(12) BENEFITS.—

(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 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 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 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.

Section 8. Effective July 1, 2001, paragraph (a) of subsection (1) of section 121.053, Florida Statutes, is amended to read:

121.053 Participation in the Elected 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 Officers' Class for a period of at least ~~6~~ 8 years, shall be entitled to receive an additional retirement benefit for such elected officer service prior to July 1, 1990, under the Elected Officers' Class of the Florida Retirement System, as follows:

1. Upon completion of ~~6~~ 8 or more years of creditable service in an office covered by the Elected 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 System Trust Fund; however, such member may purchase retirement credit under the Elected 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 System 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 System Trust Fund.

Section 9. Effective July 1, 2001, paragraph (i) of subsection (1) of section 121.081, Florida Statutes, is amended to read:

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

(1)

(i) An employee of a state agency who was a member of a state-administered retirement system and who was granted educational leave with pay pursuant to a written educational leave-with-pay policy may claim such period of educational leave as past service subject to the following conditions:

1. The educational leave must have occurred prior to December 31, 1971;
2. The member must have completed at least 6 ~~10~~ years of creditable service excluding the period of the educational leave;
3. The employee must have returned to employment with a state agency employer who participated in the retirement system, which return was immediately upon termination of the educational leave, and must have remained on the employer's payroll for at least 1 calendar month following the return to employment;
4. The employee must be a member of the Florida Retirement System at the time he or she claims such service;
5. Not more than 24 months of creditable service may be claimed for such period of educational leave with pay;
6. The service must not be claimed under any other state or federal retirement system; and
7. The member must pay to the retirement trust fund for claiming such past-service credit an amount equal to 8 percent of his or her gross annual salary immediately prior to the educational leave with pay for each year of past service claimed, plus 4 percent interest thereon compounded annually each June 30 from the first year of service claimed until July 1, 1975, and 6.5 percent interest thereafter on the unpaid balance compounded annually each June 30 until paid.

Section 10. Effective July 1, 2001, paragraph (b) of subsection (1) of section 121.1115, Florida Statutes, 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:

(b) The member must have completed a minimum of 6 ~~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.

Section 11. Effective July 1, 2001, paragraph (a) of subsection (2) of section 121.1122, Florida Statutes, is amended to read:

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

(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 6 ~~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.

Section 12. Effective July 1, 2001, paragraph (a) of subsection (1) of section 121.121, Florida Statutes, is amended to read:

121.121 Authorized leaves of absence.—

(1) A member may purchase creditable service for up to 2 work years of authorized leaves of absence if:

(a) The member has completed a minimum of 6 ~~10~~ years of creditable service, excluding periods for which a leave of absence was authorized;

Section 13. Paragraph (b) of subsection (2) of section 215.32, Florida Statutes, is amended to read:

215.32 State funds; segregation.—

(2) The source and use of each of these funds shall be as follows:

(b)1. The trust funds shall consist of moneys received by the state which under law or under trust agreement are segregated for a purpose authorized by law. The state agency or branch of state government receiving or collecting such moneys shall be responsible for their proper expenditure as provided by law. Upon the request of the state agency or branch of state government responsible for the administration of the trust fund, the Comptroller

may establish accounts within the trust fund at a level considered necessary for proper accountability. Once an account is established within a trust fund, the Comptroller may authorize payment from that account only upon determining that there is sufficient cash and releases at the level of the account.

2. In order to maintain a minimum number of trust funds in the State Treasury, each state agency or the judicial branch may consolidate, if permitted under the terms and conditions of their receipt, the trust funds administered by it; provided, however, the agency or judicial branch employs effectively a uniform system of accounts sufficient to preserve the integrity of such trust funds; and provided, further, that consolidation of trust funds is approved by the Administration Commission or the Chief Justice.

3. All such moneys are hereby appropriated to be expended in accordance with the law or trust agreement under which they were received, subject always to the provisions of chapter 216 relating to the appropriation of funds and to the applicable laws relating to the deposit or expenditure of moneys in the State Treasury.

4.a. Notwithstanding any provision of law restricting the use of trust funds to specific purposes, unappropriated cash balances from selected trust funds may be authorized by the Legislature for transfer to the Budget Stabilization Fund and Working Capital Fund in the General Appropriations Act.

b. This subparagraph does not apply to trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body; the State Transportation Trust Fund; the trust fund containing the net annual proceeds from the Florida Education Lotteries; the Florida Retirement System Trust Fund; trust funds under the management of the Board of Regents, where such trust funds are for auxiliary enterprises, self-insurance, and contracts, grants, and donations, as those terms are defined by general law; trust funds that serve as clearing funds or accounts for the Comptroller or state agencies; trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and other trust funds authorized by the State Constitution.

Section 14. Paragraph (e) of subsection (1) of section 112.665, Florida Statutes, is amended to read:

112.665 Duties of Department of Management Services.—

(1) The Department of Management Services shall:

(e) Issue, by January 1 annually, a report to the Special District Information Program of the Department of Community Affairs that includes the participation in and compliance of special districts with the local government retirement system provisions in s. 112.63 and the state-administered retirement system provisions as specified in part I of chapter 121; and

Section 15. Paragraph (a) of subsection (1) of section 121.091, Florida Statutes, is 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 department. The department 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 department's rules. The department 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; ~~and~~

i. Three percent of the member's average final compensation for all creditable years of service after September 30, 1978, and before January 1, 1993, for any special risk member who retires after July 1, 2000, or any member of the Special Risk Administrative Support Class entitled to retain the special risk normal retirement date who was a member of the Special Risk Class during the time period and who retires after July 1, 2000.

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

4. For creditable years of Elected 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;

Section 16. It is the intent of the Legislature that costs attributable to increases in the retirement accrual rates for October 1978 through December 1992 for members of the Special Risk Class shall be funded by recognition of a lump sum from the excess actuarial assets of the Florida Retirement System Trust Fund as follows:

(1) For fiscal year 2000-2001, the lump sum to be recognized shall be the greater of:

(a) \$345 million; or

(b) The amount available under the rate stabilization mechanism described in s. 121.031, Florida Statutes, after any other recognition of excess actuarial assets pursuant to this act.

(2)(a) For fiscal years 2001-2002 and 2002-2003, the lump sums to be recognized shall be the lesser of:

1. The amount available under the rate stabilization mechanism described in s. 121.031, Florida Statutes, after any other recognition of excess actuarial assets pursuant to this act; or

2. The remaining amount needed to fully fund the benefit accrual rate.

(b) If, after the recognition of excess actuarial assets pursuant to this subsection, there remains an unfunded actuarial liability attributable to the increase in the retirement accrual rates for the Special Risk Class, the

contribution rate applicable to the Special Risk Class of the Florida Retirement System shall be increased by 1.85 percentage points, effective July 1, 2002, unless the Legislature provides an alternative funding mechanism.

Section 17. Effective July 1, 2001, paragraphs (a) and (j) of subsection (4) of section 121.091, Florida Statutes, 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 department. The department 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 department's rules. The department 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.

(4) DISABILITY RETIREMENT BENEFIT.—

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

1.a. 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. However, if a 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.

b. Effective July 1, 2001, a member of the defined benefit retirement program who becomes totally and permanently disabled, as defined in paragraph (b), after completing 8 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.

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

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

(j) 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 ~~6~~ 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.

Section 18. Effective July 1, 2001, subsections (2) and (3) of section 112.363, Florida Statutes, are amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

(a) A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. 110.1232, or any other special pension or relief act shall not be eligible for such payments.

(b) For purposes of this section, a person is deemed retired from a state-administered retirement system when he or she terminates employment with all employers participating in the Florida Retirement System as described in s. 121.021(39) and:

1. For a participant of the Public Employee Optional Retirement Program established under part II of chapter 121, the participant meets the age or service requirements to qualify for normal retirement as set forth in s. 121.021(29).

2. For a member of the Florida Retirement System defined benefit program, or any employee who maintains creditable service under both the

defined benefit program and the Public Employee Optional Retirement Program, the member begins drawing retirement benefits from the defined benefit program of the Florida Retirement System.

(c)1. Effective July 1, 2001, any person retiring on or after such date as a member of the Florida Retirement System, including any participant of the defined contribution program administered pursuant to part II of chapter 121, must have satisfied the vesting requirements for his or her membership class under the Florida Retirement System defined benefit program as administered under part I of chapter 121.

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

(d) Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the Department of Management Services. Participation in a former employer's group health insurance program is not a requirement for eligibility under this section.

(e) ~~However,~~ Participants in the Senior Management Service Optional Annuity Program as provided in s. 121.055(6) and the State University System Optional Retirement Program as provided in s. 121.35 shall not receive the retiree health insurance subsidy provided in this section. The employer of such participant shall pay the contributions required in subsection (8) to the annuity program provided in s. 121.055(6)(d) or s. 121.35(4)(a), as applicable.

### (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

(a) Beginning January 1, 1988, each eligible retiree or a beneficiary who is a spouse or financial dependent thereof shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$1; however, no retiree may receive a subsidy payment of more than \$30 or less than \$10.

(b) Beginning January 1, 1989, each eligible retiree or a beneficiary who is a spouse or financial dependent shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$2; however, no retiree may receive a subsidy payment of more than \$60 or less than \$20.

(c) Beginning January 1, 1991, each eligible retiree or a beneficiary who is a spouse or financial dependent shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$3; however, no retiree may receive a subsidy payment of more than \$90 or less than \$30.

(d) Beginning January 1, 1999, each eligible retiree or, if the retiree is deceased, his or her beneficiary who is receiving a monthly benefit from such retiree's account and who is a spouse, or a person who meets the definition of joint annuitant in s. 121.021(28), shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$5; however, no eligible retiree or such beneficiary may receive a subsidy payment of more than \$150 or less than \$50. If there are multiple beneficiaries, the total payment must not be greater than the payment to which the retiree was entitled.

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

2. Beginning July 1, 2002, each eligible participant of the Public Employee Optional Retirement Program of the Florida Retirement System who has met the requirements of this section, or, if the participant is deceased, his or her spouse who is the participant's designated beneficiary, shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as provided in this subparagraph, completed at the time of retirement, multiplied by \$5; however, no eligible retiree or beneficiary may receive a subsidy payment of more than \$150 or less than \$30. For purposes of determining a participant's creditable service used to calculate the health insurance subsidy, a participant's years of service credit or fraction thereof shall be based on the participant's work year as defined in s. 121.021(54). Credit shall be awarded for a full work year whenever health insurance subsidy contributions have been made as required by law for each month in the participant's work year. In addition, all years of creditable service retained under the Florida Retirement System defined benefit program shall be included as creditable service for purposes of this section.

Section 19. Paragraphs (b) and (h) of subsection (1), paragraph (b) of subsection (4), and paragraph (e) of subsection (6) of section 121.055, Florida Statutes, 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)

(b)1. Except as provided in subparagraph 2., effective January 1, 1990, participation in the Senior Management Service Class shall be compulsory for the president of each community college, the manager of each participating city or county, and all appointed district school superintendents. Effective January 1, 1994, additional positions may be designated for inclusion in the Senior Management Service Class of the Florida Retirement System, provided that:

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

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

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

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. In lieu of participation in the Senior Management Service Class, members of the Senior Management Service Class pursuant to the provisions of subparagraph 1. may withdraw from the Florida Retirement System altogether. The decision to withdraw from the Florida Retirement System shall be irrevocable for as long as the employee holds such a position. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Senior Management Service Class shall not be earned after such withdrawal. Such members shall not be eligible to participate in the Senior Management Service Optional Annuity Program.

(h)1. Except as provided in subparagraph 3., effective January 1, 1994, participation in the Senior Management Service Class shall be compulsory for the State Courts Administrator and the Deputy State Courts Administrators, the Clerk of the Supreme Court, the Marshal of the Supreme Court, the Executive Director of the Justice Administrative Commission, the Capital Collateral Regional Councils Representative, the clerks of the district courts of appeals, the marshals of the district courts of appeals, and the trial court administrator in each judicial circuit. Effective January 1, 1994, additional positions in the offices of the state attorney and public defender in

each judicial circuit may be designated for inclusion in the Senior Management Service Class of the Florida Retirement System, provided that:

a. Positions to be included in the class shall be designated by the state attorney or public defender, as appropriate. Notice of intent to designate positions for inclusion in the class shall be published once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected, as provided in chapter 50.

b. One nonelective full-time position may be designated for each state attorney and public defender reporting to the Department of Management Services; for agencies with 200 or more regularly established positions under the state attorney or public defender, additional nonelective full-time positions may be designated, not to exceed 0.5 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who serves at the pleasure of the state attorney or public defender without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. Participation in this class shall be compulsory, except as provided in subparagraph 3., for any judicial employee who holds a position designated for coverage in the Senior Management Service Class, and such participation shall continue until the employee terminates employment in a covered position. Effective January 1, 2001, participation in this class is compulsory for assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsels.

3. In lieu of participation in the Senior Management Service Class, such members, excluding assistant state attorneys, assistant public defenders, assistant statewide prosecutors, and assistant capital collateral regional counsels, may participate in the Senior Management Service Optional Annuity Program as established in subsection (6).

(4)

(b) Service in an eligible position prior to February 1, 1987, or after January 31, 1987, shall satisfy the requirement of attaining the normal retirement date as defined in s. 121.021(29) for a Senior Management Service Class member, provided the employee is a member of the Senior Management Service Class after January 31, 1987. A member of this class who fails to complete 6 7 years of creditable service in an eligible position shall be required to satisfy the requirements for the normal retirement date for a regular member as provided in s. 121.021(29).

(6)

(e) Benefits.—

1. Benefits shall be payable under the Senior Management Service Optional Annuity Program only to participants in the program, or their beneficiaries as designated by the participant in the contract with a provider company, 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. A participant must be terminated from all employment with all Florida Retirement System employers as provided in s. 121.021(39) to begin receiving the employer-funded benefit. Benefits funded by employer contributions shall be payable only as a lifetime annuity to the participant, his or her beneficiary, or his or her 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 or her to optional annuity program participation. A de minimis account is an account with a provider company containing employer contributions and accumulated earnings of not more than \$5,000 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; or

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

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.

3. A participant who receives optional annuity program benefits funded by employer contributions shall be deemed to be retired from a state-administered retirement system in the event of subsequent employment with any employer that participates in the Florida Retirement System.

Section 20. It is the intent of the Legislature that the normal costs attributable to the reduction in vesting requirements for members of the defined benefit retirement program shall be funded by recognition of a lump sum from the excess actuarial assets of the Florida Retirement System Trust Fund as follows:

(1) For fiscal year 2001-2002, the lump sum to be recognized shall be the annual cost attributable to 6-year vesting.

(2) For fiscal year 2002-2003, the Legislature intends to recognize a lump sum equal to the annual cost attributable to 6-year vesting and shall review the contribution rates necessary to fund this change in vesting requirements. Absent legislative action to recognize an additional lump sum for fiscal year 2002-2003 and thereafter, the contribution rates shall be increased as follows:

(a) The contribution rate that applies to the Regular Class of the Florida Retirement System shall be increased by 0.42 percentage points.

(b) The contribution rate that applies to the Special Risk Class of the Florida Retirement System shall be increased by 0.64 percentage points.

(c) The contribution rate that applies to the Special Risk Administrative Support Class of the Florida Retirement System shall be increased by 0.30 percentage points.

(d) The contribution rate that applies to the Judicial subclass of the Elected Officers' Class of the Florida Retirement System shall be increased by 0.34 percentage points.

(e) The contribution rate that applies to the legislative-attorney-Cabinet subclass of the Elected Officers' Class of the Florida Retirement System shall be increased by 0.66 percentage points.

(f) The contribution rate that applies to the County Officers' subclass of the Elected Officers' Class of the Florida Retirement System shall be increased by 0.17 percentage points.

(g) The contribution rate that applies to the Senior Management Service Class of the Florida Retirement System shall be increased by 0.19 percentage points.

These increases shall be in addition to all other changes to such contribution rates which may be enacted into law to take effect on that date. The Division of Statutory Revision is directed to adjust the contribution rates set forth in ss. 121.052, 121.055, and 121.071, Florida Statutes.

Section 21. (1) It is the intent of the Legislature that the normal costs attributable to the 1999 actuarial experience study of the defined benefit retirement program shall be funded by recognition of a lump sum from the excess actuarial assets of the Florida Retirement System Trust Fund as follows:

(2) For fiscal year 2000-2001, the lump sum to be recognized shall be the annual cost attributable to the 1999 actuarial experience study. For fiscal year 2001-2002, the Legislature intends to recognize a lump sum of \$76.7 million and shall review the contribution rate necessary to fund these costs. Absent legislative action to the contrary, the contribution rates shall be increased on July 1, 2001, as follows:

(a) The contribution rate that applies to the Regular Class of the Florida Retirement System shall be increased by 0.28 percentage points.

(b) The contribution rate that applies to the Special Risk Class of the Florida Retirement System shall be increased by 1.13 percentage points.

(c) The contribution rate that applies to the Special Risk Administrative Support Class of the Florida Retirement System shall be increased by 0.65 percentage points.

(d) The contribution rate that applies to the Judicial subclass of the Elected Officers' Class of the Florida Retirement System shall be increased by 0.00 percentage points.

(e) The contribution rate that applies to the legislative-attorney-Cabinet subclass of the Elected Officers' Class of the Florida Retirement System shall be increased by 0.00 percentage points.

(f) The contribution rate that applies to the County Officers' subclass of the Elected Officers' Class of the Florida Retirement System shall be increased by 0.11 percentage points.

(g) The contribution rate that applies to the Senior Management Service Class of the Florida Retirement System shall be increased by 0.36 percentage points.

These increases shall be in addition to all other changes to such contribution rates which may be enacted into law to take effect on that date. The Division of Statutory Revision is directed to adjust the contribution rates set forth in ss. 121.052, 121.055, and 121.071, Florida Statutes.

Section 22. (1) Effective July 1, 2000, for fiscal year 2000-2001, the contribution rates for the Regular Class, Special Risk Class, Special Risk Administrative Support Class, each subclass of the Elected Officers' Class, and the Senior Management Service Class each shall be reduced by 1.0 percentage points. These reductions shall be in addition to all other changes to such contribution rates which may be enacted into law after July 1, 2000.

(2) It is the intent of the Legislature that the costs attributable to the reduction of contribution rates pursuant to subsection (1) shall be funded by recognition of a lump sum equal to the annual cost attributable to this reduction of the contribution rates from the excess actuarial assets of the Florida Retirement System Trust Fund.

Section 23. Effective July 1, 2002, in order to fund the changes in normal cost for the defined benefit retirement program resulting from the implementation of the Public Employee Optional Retirement Program, as created by this act:

(1) The contribution rate that applies to the Regular Class of the Florida Retirement System shall be increased by 0.21 percentage points.

(2) The contribution rate that applies to the Special Risk Class of the Florida Retirement System shall be increased by 0.01 percentage points.

(3) The contribution rate that applies to the Special Risk Administrative Support Class of the Florida Retirement System shall be decreased by 0.02 percentage points.

(4) The contribution rate that applies to the Judicial subclass of the Elected Officers' Class of the Florida Retirement System shall be increased by 0.00 percentage points.

(5) The contribution rate that applies to the legislative-attorney-Cabinet subclass of the Elected Officers' Class of the Florida Retirement System shall be increased by 0.07 percentage points.

(6) The contribution rate that applies to the County Officers' subclass of the Elected Officers' Class of the Florida Retirement System shall be increased by 0.00 percentage points.

(7) The contribution rate that applies to the Senior Management Service Class of the Florida Retirement System shall be increased by 0.00 percentage points.

These increases shall be in addition to all other changes to such contribution rates which may be enacted into law to take effect on that date. The Division of Statutory Revision is directed to adjust the contribution rates set forth in ss. 121.052, 121.055, and 121.071, Florida Statutes.

Section 24. (1) Effective July 1, 2000, for fiscal years 2000-2001 and 2001-2002, the contribution rates for the Regular Class, Special Risk Class, Special Risk Administrative Support Class, each subclass of the Elected Officers' Class, and the Senior Management Service Class each shall be reduced by 0.1 percentage points. These reductions shall be in addition to all other changes to such contribution rates which may be enacted into law to take effect on that date.

(2) It is the intent of the Legislature that the costs attributable to the reduction of contribution rates pursuant to subsection (1) shall be funded by a recognition of a lump sum from the excess actuarial assets of the Florida Retirement System Trust Fund for fiscal years 2000-2001 and 2001-2002.

Section 25. (1) In order to implement the provisions of this act, the State Board of Administration, the Department of Management Services, and the employers participating in the Florida Retirement System shall coordinate efforts to the greatest extent practicable.

(2)(a) For fiscal years 2000-2001 and 2001-2002, each employer participating in the Florida Retirement System administered pursuant to chapter 121, Florida Statutes, shall pay an additional contribution to the Division of Retirement equal to 0.1 percent of each member's gross compensation for deposit in the division's Operating Trust Fund. The contributions shall be made for each pay period and are in addition to all contributions required for the Florida Retirement System, social security, and the Retiree Health Insurance Subsidy Trust Fund.

(b) Such contributions shall be transferred immediately from the division's Operating Trust Fund to the State Board of Administration's Administrative Expense Trust Fund to offset the costs of implementing the Public Employee Optional Retirement Program as created by this act. Such funds may be expended by the State Board of Administration to offset reasonable expenses incurred by the board and the Public Employee Optional Retirement Program Advisory Committee. The board shall transfer such funds as are necessary to the Division of Retirement in order to carry out the provisions of this act.

(3) The Trustees of the State Board of Administration shall take all steps necessary and appropriate to ensure that the Public Employee Optional Retirement Program created by this act is implemented in an expeditious and professional manner. Acting through the executive director of the State Board of Administration, defined contribution program costs shall be separately budgeted and accounted for, staff shall report to a separate unit director, and other steps shall be taken to ensure that a focused implementation working group is organized and on task. The executive director shall report separately to the trustees on defined contribution and defined benefit program activities and the trustees shall prepare separate reports to the Legislature on each program's accomplishments and activities. These reports shall be prepared at the discretion of the trustees, but no less frequently than annually.

Section 26. Subsection (3) of section 121.031, Florida Statutes, is amended to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(3) The administrator shall cause an actuarial study of the system to be made at least annually ~~once every 2 years~~ and shall report the results of such study to the Legislature by December 31 ~~February 1~~ prior to the next legislative session.

(a) The study shall, at a minimum, conform to the requirements of s. 112.63, with the following exceptions and additions:

1. The valuation of plan assets shall be based on a 5-year averaging methodology such as that specified in the United States Department of Treasury Regulations, 26 C.F.R. s. 1.412(c)(2)-1, or a similar accepted approach designed to attenuate fluctuations in asset values.

2. The study shall include a narrative explaining the changes in the covered group over the period between actuarial valuations and the impact of those changes on actuarial results.

3. When substantial changes in actuarial assumptions have been made, the study shall reflect the results of an actuarial assumption as of the current date based on the assumptions utilized in the prior actuarial report.

4. The study shall include an analysis of the changes in actuarial valuation results by the factors generating those changes. Such analysis shall reconcile the current actuarial valuation results with those results from the prior valuation.

5. The study shall include measures of funding status and funding progress designed to facilitate the assessment of trends over several actuarial valuations with respect to the overall solvency of the system. Such measures shall be adopted by the division and shall be used consistently in all actuarial valuations performed on the system.

6. The actuarial model used to determine the adequate level of funding for the Florida Retirement System shall include a specific rate stabilization

mechanism, as prescribed herein. It is the intent of the Legislature to maintain as a reserve a specific portion of any actuarial surplus, and to use such reserve for the purpose of offsetting future unfunded liabilities caused by experience losses, thereby minimizing the risk of future increases in contribution rates. It is further the intent of the Legislature that the use of any excess above the reserve to offset retirement system normal cost shall be in a manner that will allow system employers to plan appropriately for resulting cost reductions and subsequent cost increases. The rate stabilization mechanism shall operate as follows:

a. The actuarial surplus shall be the value of actuarial assets over actuarial liabilities, as is determined on the preceding June 30 or as may be estimated on the preceding December 31.

b. The full amount of any experience loss shall be offset, to the extent possible, by any actuarial surplus.

c. If the actuarial surplus exceeds 5 percent of actuarial liabilities, one-half of the excess may be used to offset total retirement system costs. In addition, if the actuarial surplus exceeds 10 percent of actuarial liabilities, an additional one-fourth of the excess above 10 percent may be used to offset total retirement system costs. In addition, if the actuarial surplus exceeds 15 percent of actuarial liabilities, an additional one-fourth of the excess above 15 percent may be used to offset total retirement system costs.

d. Any surplus amounts available to offset total retirement system costs pursuant to sub-subparagraph c. should be amortized each year over a 10-year rolling period on a level-dollar basis.

(b) The Florida Retirement System Actuarial Assumption Conference which is hereby created shall by consensus develop official information with respect to the economic and noneconomic assumptions and funding methods of the Florida Retirement System necessary to perform the study. Such information shall include: an analysis of the actuarial assumptions and actuarial methods and a determination of whether changes to the assumptions or methods need to be made due to experience changes or revised future forecasts. The members of the conference shall include the Executive Office of the Governor, the coordinator of the Office of Economic and Demographic Research, and professional staff of the Senate and House of Representatives who have forecasting expertise, or their designees. The Executive Office of the Governor shall have the responsibility of presiding over the sessions of the conference. The State Board of Administration and the Division of Retirement shall be participants, as defined in s. 216.134, in the conference.

Section 27. The Department of Management Services shall report to the Legislature no later than February 1, 2001, on the effects of 6-year vesting on the incidental disability benefit and the health insurance subsidy. The Legislature intends to consider legislation regarding disability for both the defined benefit and defined contribution programs during the 2001 regular legislative session.

Section 28. Paragraph (d) is added to subsection (15) of 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:

(15)

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

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

Section 29. Subsection (2) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership; criteria; designation and removal of classification; credits for past service and prior service; retention of special risk normal retirement date.—

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

(a) The member must be employed as a law enforcement officer and be certified, or required to be certified, in compliance with s. 943.1395; however, sheriffs and elected police chiefs shall be excluded from meeting the certification requirements of this paragraph. In addition, the member's duties and responsibilities must include the pursuit, apprehension, and arrest of law violators or suspected law violators; or the member must be an active member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(b) The member must be employed as a firefighter and be certified, or required to be certified, in compliance with s. 633.35 and be employed solely within the fire department of the employer or agency of state government. In addition, the member's duties and responsibilities must include on-the-scene fighting of fires or direct supervision of firefighting units, or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(c) The member must be employed as a correctional officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition,

the member's primary duties and responsibilities must be the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included; however, superintendents and assistant superintendents shall participate in the Special Risk Class; or

(d) The member must be employed by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer as an emergency medical technician or a paramedic and be certified in compliance with s. 401.27. In addition, the member's primary duties and responsibilities must include on-the-scene emergency medical care. However, administrative support personnel, including, but not limited to, those whose primary responsibilities are in accounting, purchasing, legal, and personnel, shall not be included; or

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

(f) The member must be employed in one of the following classes and must spend at least 75 percent of his or her time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution:

1. Dietitian (class codes 5203 and 5204).
2. Public health nutrition consultant (class code 5224).
3. Psychological specialist (class codes 5230 and 5231).
4. Psychologist (class code 5234).
5. Senior psychologist (class codes 5237 and 5238).
6. Regional mental health consultant (class code 5240).
7. Psychological Services Director - DCF (class code 5242).
8. Pharmacist (class codes 5245 and 5246).

9. Senior pharmacist (class codes 5248 and 5249).
10. Dentist (class code 5266).
11. Senior dentist (class code 5269).
12. Registered nurse (class codes 5290 and 5291).
13. Senior registered nurse (class codes 5292 and 5293).
14. Registered nurse specialist (class codes 5294 and 5295).
15. Clinical associate (class codes 5298 and 5299).
16. Advanced registered nurse practitioner (class codes 5297 and 5300).
17. Advanced registered nurse practitioner specialist (class codes 5304 and 5305).
18. Registered nurse supervisor (class codes 5306 and 5307).
19. Senior registered nurse supervisor (class codes 5308 and 5309).
20. Registered nursing consultant (class codes 5312 and 5313).
21. Quality management program supervisor (class code 5314).
22. Executive nursing director (class codes 5320 and 5321).
23. Speech and hearing therapist (class code 5406); or
24. Pharmacy manager (class code 5251).

Section 30. 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 that 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 determines and declares that this act fulfills an important state interest.

Section 31. The State Board of Administration shall, as soon as practicable after the effective date of this act, request an expedited opinion from the United States Internal Revenue Service as to the qualified status of the defined contribution program.

Section 32. Except as otherwise provided herein, this act shall take effect July 1, 2000, and the Public Employee Optional Retirement Program created by this act shall be contingent upon:

1. The State Board of Administration receiving a favorable determination letter and a favorable private letter ruling from the Internal Revenue Service by May 1, 2002. If the Internal Revenue Service refuses to act upon

a request for a private letter ruling, then a favorable legal opinion from a qualified tax attorney or firm may be substituted for such private letter ruling.

2. The State Board of Administration having selected and contracted with the third-party administrator.

3. The third-party administrator having successfully established data links with the employers participating in the Florida Retirement System.

4. The education component of the Public Employee Optional Retirement Program having been available for at least 90 days.

5. A diversified portfolio of financial instruments having become available to participants of the Public Employee Optional Retirement Program.

Approved by the Governor June 1, 2000.

Filed in Office Secretary of State June 1, 2000.