

Committee Substitute for
Committee Substitute for Senate Bill No. 958

An act relating to retirement; amending s. 121.051, F.S.; revising participation options for participants in the Community College Optional Retirement Program; amending s. 121.091, F.S.; revising certain limitations on positions for which a district school board may employ a member after a specified period of retirement; increasing the period of time in which certain members of the Florida Retirement System who are employed as instructional personnel in K-12 may participate in the deferred retirement option program; amending s. 121.71, F.S.; revising the payroll contribution rates for the Florida Retirement System; providing funding for benefit enhancements through the recognition of excess actuarial assets; providing legislative intent regarding other rate changes scheduled to take effect on July 1, 2003; amending s. 121.74, F.S.; reducing the assessment for administrative and educational expenses; providing that the act fulfills an important state interest; amending s. 121.40, F.S.; revising the payroll contribution rates for the supplemental retirement plan for the Institute of Food and Agricultural Sciences; amending s. 121.4501, F.S.; revising participation requirements in the Public Employee Optional Retirement Program for participants in the Community College Optional Retirement Program; amending s. 1012.875, F.S.; changing distribution options for participants in the Community College Optional Retirement Program; providing effective dates.

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

Section 1. Paragraph (c) of subsection (2) of section 121.051, Florida Statutes, is amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(c) Employees of public community colleges or charter technical career centers sponsored by public ~~members of the~~ community colleges, as designated in s. 1000.21(3), who are members of the Regular Class of the Florida Retirement System and who comply with the criteria set forth in this paragraph and in s. 1012.875 may elect, in lieu of participating in the Florida Retirement System, to withdraw from the Florida Retirement System altogether and participate in an optional retirement a lifetime monthly annuity program provided by the employing agency under s. 1012.875, to be known as the State Community College System Optional Retirement Program, ~~which may be provided by the employing agency under s. 1012.875~~. Pursuant thereto:

1. Through June 30, 2001, the cost to the employer for such annuity shall equal the normal cost portion of the employer retirement contribution which

would be required if the employee were a member of the Regular Class defined benefit program, plus the portion of the contribution rate required by s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund. Effective July 1, 2001, each employer shall contribute on behalf of each participant in the optional program an amount equal to 10.43 percent of the participant's gross monthly compensation. The employer shall deduct an amount to provide for the administration of the optional retirement program. The employer providing the optional program ~~such annuity~~ shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Regular Class contribution rate.

2. The decision to participate in such an optional retirement program shall be irrevocable for as long as the employee holds a position eligible for participation, except as provided in subparagraph 3. Any service creditable under the Florida Retirement System shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Florida Retirement System shall not be earned while a member of the optional retirement program.

3. An employee who has elected to participate in the optional retirement program shall have one opportunity, at the employee's discretion, to choose to transfer from the optional retirement program to the defined benefit program of the Florida Retirement System or to the Public Employee Optional Retirement Program, subject to the terms of the applicable optional retirement program contracts.

a. If the employee chooses to move to the Public Employee Optional Retirement Program, any contributions, interest, and earnings creditable to the employee under the State Community College System Optional Retirement Program shall be retained by the employee in the State Community College System Optional Retirement Program, and the applicable provisions of s. 121.4501(4) shall govern the election.

b. If the employee chooses to move to the defined benefit program of the Florida Retirement System, the employee shall receive service credit equal to his or her years of service under the State Community College Optional Retirement Program.

(I) The cost for such credit shall be an amount representing the present value of that employee's accumulated benefit obligation for the affected period of service. The cost shall be calculated as if the benefit commencement occurs on the first date the employee would become eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System defined benefit plan liabilities in the most recent actuarial valuation. The calculation shall include any service already maintained under the defined benefit plan in addition to the years under the State Community College Optional Retirement Program. The present value of any service already maintained under the defined benefit plan shall be applied as a credit to total cost resulting from the calculation. The division shall ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary.

(II) The employee must transfer from his or her State Community College System Optional Retirement Program account and from other employee moneys as necessary, a sum representing the present value of that employee's accumulated benefit obligation immediately following the time of such movement, determined assuming that attained service equals the sum of service in the defined benefit program and service in the State Community College System Optional Retirement Program.

4.3. Participation in ~~the an optional retirement annuity~~ program shall be limited to those employees who satisfy the following eligibility criteria:

a. The employee must be otherwise eligible for membership in the Regular Class of the Florida Retirement System, as provided in s. 121.021(11) and (12).

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

(I) Instructional; or

(II) Executive Management, Instructional Management, or Institutional Management, if a community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and:

(A) The duties and responsibilities of the position include either the formulation, interpretation, or implementation of policies; or

(B) The duties and responsibilities of the position include the performance of functions that are unique or specialized within higher education and that frequently involve the support of the mission of the community college.

c. The employee must be employed in a position not included in the Senior Management Service Class of the Florida Retirement System, as described in s. 121.055.

5.4. Participants in the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions as are applicable to regular members of the Florida Retirement System under ss. 121.091(9), 121.122, and 121.091(5), respectively.

6.5. Eligible community college employees shall be compulsory members of the Florida Retirement System until, pursuant to the procedures set forth in s. 1012.875, a written election to withdraw from the Florida Retirement System and to participate in the State Community College Optional Retirement Program is filed with the program administrator and received by the division the first day of the next full calendar month following the filing of both a written election to withdraw and a completed application for an individual contract or certificate with the program administrator and receipt of such election by the division.

a. Any community college employee whose program eligibility results from initial employment shall be enrolled in the State Community College

Optional Retirement Program retroactive to the first day of eligible employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the community college for the employee's optional program account, and, effective the first day of the next month, the employer shall pay the applicable contributions based upon subparagraph 1.

b. Any community college employee whose program eligibility results from a change in status due to the subsequent designation of the employee's position as one of those specified in subparagraph 4. or due to the employee's appointment, promotion, transfer, or reclassification to a position specified in subparagraph 4. shall be enrolled in the program upon the first day of the first full calendar month that such change in status becomes effective. The employer retirement contributions paid from the effective date through the month of the employee plan change shall be transferred to the community college for the employee's optional program account, and, effective the first day of the next month, the employer shall pay the applicable contributions based upon subparagraph 1.

7. Effective July 1, 2003, any participant of the State Community College Optional Retirement Program who has service credit in the defined benefit plan of the Florida Retirement System for the period between his or her first eligibility to transfer from the defined benefit plan to the optional retirement program and the actual date of transfer may, during their employment, elect to transfer to the optional retirement program a sum representing the present value of the accumulated benefit obligation under the defined benefit retirement program for such period of service credit. Upon such transfer, all such service credit previously earned under the defined benefit program of the Florida Retirement System during this period shall be nullified for purposes of entitlement to a future benefit under the defined benefit program of the Florida Retirement System.

Section 2. Subsections (9) and (13) 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.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(a) Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be employed by an employer that does not participate in a state-administered retirement system

and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable to that person.

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

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

3. A district school board may reemploy a retired member as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). A district school board may reemploy a retired member as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any other retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers, education paraprofessionals, transportation assistants, bus drivers, or food service workers are subject to the retirement contribution required by subparagraph 7. ~~Reemployment of a retired member as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the~~

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

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

5. The State University System may reemploy a retired member as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in subparagraph 7., as appropriate. A retired member may be reemployed as an adjunct faculty

member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

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

7. The employment by an employer of any retiree or DROP participant of any state-administered retirement system shall have no effect on the average final compensation or years of creditable service of the retiree or DROP participant. Prior to July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who has been retired under any state-administered retirement program, the employer shall pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution which would be required for regular members of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for retirees with renewed membership or subsection (13) with respect to DROP participants.

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

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

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

11. An employing agency may reemploy a retired member as a firefighter or paramedic after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The employing agency reemploying such firefighter or paramedic is subject to the retired contribution required in subparagraph 8. Reemployment of a retired firefighter or paramedic is limited to no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the

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

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

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

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

(a) **Eligibility of member to participate in the DROP.**—All active Florida Retirement System members in a regularly established position, and all active members of either the Teachers' Retirement System established in chapter 238 or the State and County Officers' and Employees' Retirement System established in chapter 122 which systems are consolidated within

the Florida Retirement System under s. 121.011, are eligible to elect participation in the DROP provided that:

1. The member is not a renewed member of the Florida Retirement System under s. 121.122, or a member of the State Community College System Optional Retirement Program under s. 121.051, the Senior Management Service Optional Annuity Program under s. 121.055, or the optional retirement program for the State University System under s. 121.35.

2. Except as provided in subparagraph 6., election to participate is made within 12 months immediately following the date on which the member first reaches normal retirement date, or, for a member who reaches normal retirement date based on service before he or she reaches age 62, or age 55 for Special Risk Class members, election to participate may be deferred to the 12 months immediately following the date the member attains 57, or age 52 for Special Risk Class members. For a member who first reached normal retirement date or the deferred eligibility date described above prior to the effective date of this section, election to participate shall be made within 12 months after the effective date of this section. A member who fails to make an election within such 12-month limitation period shall forfeit all rights to participate in the DROP. The member shall advise his or her employer and the division in writing of the date on which the DROP shall begin. Such beginning date may be subsequent to the 12-month election period, but must be within the 60-month or, with respect to members who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in DROP for more than 60 months, the 96-month limitation period as provided in subparagraph (b)1. When establishing eligibility of the member to participate in the DROP for the 60-month or, with respect to members who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in DROP for more than 60 months, the 96-month maximum participation period, the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member with dual normal retirement dates shall be eligible to elect to participate in DROP within 12 months after attaining normal retirement date in either class.

3. The employer of a member electing to participate in the DROP, or employers if dually employed, shall acknowledge in writing to the division the date the member's participation in the DROP begins and the date the member's employment and DROP participation will terminate.

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

5. A DROP participant may change employers while participating in the DROP, subject to the following:

a. A change of employment must take place without a break in service so that the member receives salary for each month of continuous DROP participation. If a member receives no salary during a month, DROP participation shall cease unless the employer verifies a continuation of the employment relationship for such participant pursuant to s. 121.021(39)(b).

b. Such participant and new employer shall notify the division on forms required by the division as to the identity of the new employer.

c. The new employer shall acknowledge, in writing, the participant's DROP termination date, which may be extended but not beyond the original 60-month or, with respect to members who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in DROP for more than 60 months, the 96-month period provided in subparagraph (b)1., shall acknowledge liability for any additional retirement contributions and interest required if the participant fails to timely terminate employment, and shall be subject to the adjustment required in sub-subparagraph (c)5.d.

6. Effective July 1, 2001, for instructional personnel as defined in s. 1012.01(2), election to participate in the DROP shall be made at any time following the date on which the member first reaches normal retirement date. The member shall advise his or her employer and the division in writing of the date on which the Deferred Retirement Option Program shall begin. When establishing eligibility of the member to participate in the DROP for the 60-month or, with respect to members who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in DROP for more than 60 months, the 96-month maximum participation period, as provided in subparagraph (b)1., the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member with dual normal retirement dates shall be eligible to elect to participate in either class.

(b) Participation in the DROP.—

1. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of 60 calendar months or, with respect to members who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in DROP for more than 60 calendar months, the 96 calendar month immediately following the date on which the member first reaches his or her normal retirement date or the date to which he or she is eligible to defer his or her election to participate as provided in subparagraph (a)2. However, a member who has reached normal retirement date prior to the effective date of the DROP shall be eligible to participate in the DROP for a period of time not to exceed 60 calendar months or, with respect to members who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in DROP for more than 60 calendar months, the 96 calendar month immediately following the effective

date of the DROP, except a member of the Special Risk Class who has reached normal retirement date prior to the effective date of the DROP and whose total accrued value exceeds 75 percent of average final compensation as of his or her effective date of retirement shall be eligible to participate in the DROP for no more than 36 calendar months immediately following the effective date of the DROP.

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

a. A written election to participate in the DROP;

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

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

d. Any other information required by the division.

3. The DROP participant shall be a retiree under the Florida Retirement System for all purposes, except for paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053, and 121.122. However, participation in the DROP does not alter the participant's employment status and such employee shall not be deemed retired from employment until his or her deferred resignation is effective and termination occurs as provided in s. 121.021(39).

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

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

b. An elected or a nonelected participant may run for a term of office while participating in DROP and, if elected, extend the DROP termination date accordingly, except, however, if such additional term of office exceeds the 60-month limitation established in subparagraph 1., and the officer does not resign from office within such 60-month limitation, the retirement and the participant's DROP shall be null and void as provided in subparagraph (c)5.d.

c. An elected officer who is dually employed and elects to participate in DROP shall be required to satisfy the definition of termination within the 60-month or, with respect to members who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in DROP for more

than 60 months, the 96-month limitation period as provided in subparagraph 1. for the nonelected position and may continue employment as an elected officer as provided in s. 121.053. The elected officer will be enrolled as a renewed member in the Elected Officers' Class or the Regular Class, as provided in ss. 121.053 and 121.22, on the first day of the month after termination of employment in the nonelected position and termination of DROP. Distribution of the DROP benefits shall be made as provided in paragraph (c).

(c) Benefits payable under the DROP.—

1. Effective with the date of DROP participation, the member's initial normal monthly benefit, including creditable service, optional form of payment, and average final compensation, and the effective date of retirement shall be fixed. The beneficiary established under the Florida Retirement System shall be the beneficiary eligible to receive any DROP benefits payable if the DROP participant dies prior to the completion of the period of DROP participation. In the event a joint annuitant predeceases the member, the member may name a beneficiary to receive accumulated DROP benefits payable. Such retirement benefit, the annual cost of living adjustments provided in s. 121.101, and interest shall accrue monthly in the System Trust Fund. Such interest shall accrue at an effective annual rate of 6.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death.

2. Each employee who elects to participate in the DROP shall be allowed to elect to receive a lump-sum payment for accrued annual leave earned in accordance with agency policy upon beginning participation in the DROP. Such accumulated leave payment certified to the division upon commencement of DROP shall be included in the calculation of the member's average final compensation. The employee electing such lump-sum payment upon beginning participation in DROP will not be eligible to receive a second lump-sum payment upon termination, except to the extent the employee has earned additional annual leave which combined with the original payment does not exceed the maximum lump-sum payment allowed by the employing agency's policy or rules. Such early lump-sum payment shall be based on the hourly wage of the employee at the time he or she begins participation in the DROP. If the member elects to wait and receive such lump-sum payment upon termination of DROP and termination of employment with the employer, any accumulated leave payment made at that time cannot be included in the member's retirement benefit, which was determined and fixed by law when the employee elected to participate in the DROP.

3. The effective date of DROP participation and the effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in the DROP, provided such date is properly established, with the written confirmation of the employer, and the approval of the division, on forms required by the division.

4. Normal retirement benefits and interest thereon shall continue to accrue in the DROP until the established termination date of the DROP, or until the participant terminates employment or dies prior to such date.

Although individual DROP accounts shall not be established, a separate accounting of each participant's accrued benefits under the DROP shall be calculated and provided to participants.

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

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

b. The terminated DROP participant or, if deceased, such participant's named beneficiary, shall elect on forms provided by the division to receive payment of the DROP benefits in accordance with one of the options listed below. For a participant or beneficiary who fails to elect a method of payment within 60 days of termination of the DROP, the division will pay a lump sum as provided in sub-sub-subparagraph (I).

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

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

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

c. The form of payment selected by the DROP participant or surviving beneficiary complies with the minimum distribution requirements of the Internal Revenue Code.

d. A DROP participant who fails to terminate employment as defined in s. 121.021(39)(b) shall be deemed not to be retired, and the DROP election shall be null and void. Florida Retirement System membership shall be reestablished retroactively to the date of the commencement of the DROP, and each employer with whom the participant continues employment shall be required to pay to the System Trust Fund the difference between the DROP contributions paid in paragraph (i) and the contributions required for

the applicable Florida Retirement System class of membership during the period the member participated in the DROP, plus 6.5 percent interest compounded annually.

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

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

(d) Death benefits under the DROP.—

1. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in sub-subparagraph (c)5.b.

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

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

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

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

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

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

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

(i) Contributions.—

1. All employers paying the salary of a DROP participant filling a regularly established position shall contribute 8.0 percent of such participant's gross compensation for the period of July 1, 2002, through June 30, 2003, and 11.56 percent of such compensation thereafter, which shall constitute the entire employer DROP contribution with respect to such participant. Such contributions, payable to the System Trust Fund in the same manner as required in s. 121.071, shall be made as appropriate for each pay period and are in addition to contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund. Such employer, social security, and health insurance subsidy contributions are not included in the DROP.

2. The employer shall, in addition to subparagraph 1., also withhold one-half of the entire social security contribution required for the participant. Contributions for social security by each participant and each employer, in the amount required for social security coverage as now or hereafter provided by the federal Social Security Act, shall be in addition to contributions specified in subparagraph 1.

3. All employers paying the salary of a DROP participant filling a regularly established position shall contribute the percent of such participant's gross compensation required in s. 121.071(4), which shall constitute the employer's health insurance subsidy contribution with respect to such participant. Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

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

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

Section 3. Subsections (3) and (4) of section 121.71, Florida Statutes, are amended to read:

121.71 Uniform rates; process; calculations; levy.—

(3) Required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows: ~~Rates effective July 1, 2002, reflect an offset to normal employer costs of \$1,237,000,000, resulting from recognition and usage of current available excess assets of the Florida Retirement System Trust Fund as determined pursuant to s. 121.031. Contribution rates that become effective July 1, 2003, reflect normal system costs.~~

	Percentage of Gross Compensation, Effective July 1, 2003 2002	Percentage of Gross Compensation, Effective July 1, 2004 2003
Membership Class		
Regular Class	<u>6.18%</u> 4.50%	<u>10.07%</u> 9.87%
Special Risk Class	<u>17.32%</u> 14.75%	<u>22.15%</u> 22.89%
Special Risk Administrative Support Class	<u>8.71%</u> 5.30%	12.58%
Elected Officers' Class – Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>11.28%</u> 8.15%	<u>15.48%</u> 15.43%
Elected Officers' Class – Justices, Judges	<u>17.44%</u> 14.60%	<u>20.70%</u> 20.54%
Elected Officers' Class – County Elected Officers	<u>14.02%</u> 10.60%	<u>17.81</u> 17.52%
Senior Management Class	<u>8.16%</u> 4.80%	<u>11.59%</u> 11.68%
DROP	8.00%	11.56%

(4) ~~Notwithstanding the provisions of subsection (3), and for the fiscal year 2002-2003 only,~~ The state actuary shall recognize and use an appropriate level of available excess assets of the Florida Retirement System Trust Fund to offset the difference between the normal costs of the Florida Retirement System and the statutorily prescribed contribution rates. ~~This subsection expires July 1, 2003.~~

Section 4. Section 121.74, Florida Statutes, is amended to read:

121.74 Administrative and educational expenses.—Effective July 1, ~~2003~~ 2002, in addition to contributions required under s. 121.71, employers participating in the Florida Retirement System shall contribute an amount equal to ~~0.10~~ 0.15 percent of the payroll reported for each class or subclass of Florida Retirement System membership, which amount shall be transferred by the Division of Retirement from the Florida Retirement System Contributions Clearing Trust Fund to the State Board of Administration's Administrative Trust Fund to offset the costs of administering the optional retirement program and the costs of providing educational services to participants in the defined benefit program and the optional retirement program. Approval of the Trustees of the State Board of Administration is required prior to the expenditure of these funds. Payments for third-party administrative or educational expenses shall be made only pursuant to the terms of the approved contracts for such services.

Section 5. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems. These persons must be provided benefits that

are fair and adequate and 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 hereby determines and declares that this act fulfills an important state interest.

Section 6. Subsection (12) of section 121.40, Florida Statutes, is amended to read:

121.40 Cooperative extension personnel at the Institute of Food and Agricultural Sciences; supplemental retirement benefits.—

(12) CONTRIBUTIONS.—

(a) For the purposes of funding the supplemental benefits provided by this section, the institute is authorized and required to pay, commencing July 1, 1985, the necessary monthly contributions from its appropriated budget. These amounts shall be paid into the Institute of Food and Agricultural Sciences Supplemental Retirement Trust Fund, which is hereby created.

(b) The monthly contributions required to be paid pursuant to paragraph (a) on the gross monthly salaries, from all sources with respect to such employment, paid to those employees of the institute who hold both state and federal appointments and who participate in the federal Civil Service Retirement System shall be as follows:

Dates of Contribution Rate Changes	Percentage Due
July 1, 1985, through December 31, 1988	6.68%
January 1, 1989, through December 31, 1993	6.35%
January 1, 1994, through December 31, 1994	6.69%
January 1, 1995, through June 30, 1996	6.82%
July 1, 1996, through June 30, 1998	5.64%
July 1, 1998, through June 30, 2001	7.17%
<u>Effective July 1, 2001, through June 30, 2003</u>	6.96%
<u>Effective July 1, 2003</u>	<u>13.83%</u>

Section 7. Subsections (2) and (4) of section 121.4501, Florida Statutes, are amended to read:

121.4501 Public Employee Optional Retirement Program.—

(2) DEFINITIONS.—As used in this part, 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. The term includes a bundled provider that offers participants a range of individually allocated or unallocated investment products and may offer a range of administrative and customer services, which may include accounting and administration of individual participant benefits and contributions; individual participant recordkeeping; asset purchase, control, and

safekeeping; direct execution of the participant's instructions as to asset and contribution allocation; calculation of daily net asset values; direct access to participant account information; periodic reporting to participants, at least quarterly, on account balances and transactions; guidance, advice, and allocation services directly relating to its own investment options or products, but only if the bundled provider complies with the standard of care of s. 404(a)(1)(A-B) of the Employee Retirement Income Security Act of 1974 (ERISA) and if providing such guidance, advice, or allocation services does not constitute a prohibited transaction under s. 4975(c)(1) of the Internal Revenue Code or s. 406 of ERISA, notwithstanding that such prohibited transaction provisions do not apply to the optional retirement program; a broad array of distribution options; asset allocation; and retirement counseling and education. Private sector companies include investment management companies, insurance companies, depositories, and mutual fund companies.

(b) "Average monthly compensation" means one-twelfth of average final compensation as defined in s. 121.021(24).

(c) "Covered employment" means employment in a regularly established position as defined in s. 121.021(52).

(d) "Department" means the Department of Management Services.

(e) "Division" means the Division of Retirement within the Department of Management Services.

(f) "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, including any renewed member of 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 the State Community College Optional Retirement Program as established under s. 121.051(2)(c); 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 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. 121.051(2)(c) or s. 121.35.

(g) "Employer" means an employer, as defined in s. 121.021(10), of an eligible employee.

(h) "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).

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

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

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

(l) "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.

(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 third-party administrator by August 31, 2002, or, in the case of an active employee who is on a leave of absence on April 1, 2002, by August 31, 2002, or within 90 days after the conclusion of the leave of absence, whichever is later. 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 time period 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 April 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, by the end of the 5th month following the employee's month of hire, 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 third-party administrator. The election to participate in the optional program is irrevocable, except as provided in paragraph (e).

b. If the employee files such election within the prescribed time period, enrollment in the optional program shall be effective on the first day of employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the optional program, and, effective the first day of the next month, the employer shall pay the applicable contributions based on the employee membership class in the optional program.

c. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed time period 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. With respect to employees who become eligible to participate in the Public Employee Optional Retirement Program pursuant to s. 121.051(2)(c)3., any such employee may elect to participate in the Public Employee Optional Retirement Program in lieu of retaining his or her participation in the State Community College Optional Retirement Program. The election must be made in writing or by electronic means and must be filed with the third-party administrator. 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 participation in the State Community College Optional Retirement Program 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.

~~4.3.~~ 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 third-party administrator by November 30, or, in the case of an active employee who is on a leave of absence on July 1, 2002, by November 30, 2002, or within 90 days after the conclusion of the leave of absence, whichever is later. 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 time period 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 July 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, by the end of the 5th month following the employee's month of hire, 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 third-party administrator. The election to participate in the optional program is irrevocable, except as provided in paragraph (e).

b. If the employee files such election within the prescribed time period, enrollment in the optional program shall be effective on the first day of employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the optional program, and, effective the first day of the next month, the employer shall pay the applicable contributions based on the employee membership class in the optional program.

c. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed time period 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 third-party administrator by February 28, 2003, or, in the case of an active employee who is on a leave of absence on October 1, 2002, by February 28, 2003, or within 90 days after the conclusion of the leave of absence, whichever is later. 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 time period 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 October 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, by the end of the 5th month following the employee's month of hire, 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 third-party administrator. The election to participate in the optional program is irrevocable, except as provided in paragraph (e).

b. If the employee files such election within the prescribed time period, enrollment in the optional program shall be effective on the first day of employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the optional program, and, effective the first day of the next month, the employer shall pay the applicable contributions based on the employee membership class in the optional program.

c. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed time period 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 affirmative 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 the present value of that employee's accumulated benefit obligation immediately following the time of such movement, determined assuming that attained service equals the sum of service in the defined benefit program and service in the Public Employee Optional Retirement Program. Benefit commencement occurs on the first date the employee would become eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System defined benefit plan liabilities in the most recent actuarial valuation. For any employee who, at the time of the second election, already maintains an accrued benefit amount in the defined benefit plan, the then-present value of such accrued benefit shall be deemed part of the required transfer amount described in this subparagraph. The division shall ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary.

3. Notwithstanding subparagraph 2., an employee who chooses to move to the defined benefit program and who became eligible to participate in the Public Employee Optional Retirement Program by reason of employment in a regularly established position with a state employer after June 1, 2002; a district school board employer after September 1, 2002; or a local employer after December 1, 2002, must transfer from his or her Public Employee Optional Retirement Program account and, from other employee moneys as necessary, a sum representing that employee's actuarial accrued liability.

4. Employees' ability to transfer from the Florida Retirement System defined benefit program to the Public Employee Optional Retirement Program pursuant to paragraphs (a) through (d), and the ability for current employees to have an option to later transfer back into the defined benefit

program under subparagraph 2., shall be deemed a significant system amendment. Pursuant to s. 121.031(4), any such resulting unfunded liability arising from actual original transfers from the defined benefit program to the optional program shall be amortized within 30 plan years as a separate unfunded actuarial base independent of the reserve stabilization mechanism defined in s. 121.031(3)(f). For the first 25 years, no direct amortization payment shall be calculated for this base. During this 25-year period, such separate base shall be used to offset the impact of employees exercising their second program election under this paragraph. It is the legislative intent that the actuarial funded status of the Florida Retirement System defined benefit plan is neither beneficially nor adversely impacted by such second program elections in any significant manner, after due recognition of the separate unfunded actuarial base. Following this initial 25-year period, any remaining balance of the original separate base shall be amortized over the remaining 5 years of the required 30-year amortization period.

Section 8. Section 1012.875, Florida Statutes, is amended to read:

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

(1) As used in this section, the term:

(a) “Activation” means the date upon which an optional retirement program is first made available by the program administrator to eligible employees.

(b) “College” means community colleges as defined in s. 1000.21.

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

(d) “Program administrator” means the individual college or consortium of colleges responsible for implementing and administering an optional retirement program.

(e) “Program participant” means an eligible employee who has elected to participate in an available optional retirement program as authorized by this section.

(2) Participation in the optional retirement program provided by this section is limited to employees who satisfy the criteria set forth in s. 121.051(2)(c).

(3)(a) With respect to any employee who is eligible to participate in the optional retirement program by reason of qualifying employment commencing before the program’s activation:

1. The employee may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. To become a program participant, the employee must file with the personnel officer of the college, within 90 ~~60~~ days after the program's activation, ~~both~~ a written election on a form provided by the Florida Retirement System department and a completed application for an individual contract or certificate.

2. An employee's participation in the optional retirement program commences on the first day of the next full calendar month following the filing of the election and completed application with the program administrator and receipt of such election by the department. An employee's membership in the Florida Retirement System terminates on this same date.

3. Any such employee who fails to make an election to participate in the optional retirement program within 60 days after its activation has elected to retain membership in the Florida Retirement System.

(b) With respect to any employee who becomes eligible to participate in an optional retirement program by reason of qualifying employment commencing on or after the program's activation:

1. The employee may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. To become a program participant, the employee must file with the personnel officer of the college, within 90 ~~60~~ days after commencing qualifying employment as provided in s. 121.051(2)(c)4., ~~both~~ a written election on a form provided by the Florida Retirement System department and a completed application for an individual contract or certificate.

2. An employee's participation in the optional retirement program commences retroactive to on the first day of qualifying employment ~~the next full calendar month~~ following the filing of the election and completed application with the program administrator and receipt of such election by the department. An employee's membership in the Florida Retirement System terminates on this same date.

~~3. If the employee makes an election to participate in the optional retirement program before the community college submits its initial payroll for the employee, participation in the optional retirement program commences on the first date of employment.~~

~~3.4.~~ Any such employee who fails to make an election to participate in the optional retirement program within 90 ~~60~~ days after commencing qualifying employment has elected to retain membership in the Florida Retirement System.

(c) Any employee who, on or after an optional retirement program's activation, becomes eligible to participate in the program by reason of a change in status due to the subsequent designation of the employee's position as one of those referenced in subsection (2), or due to the employee's appointment, promotion, transfer, or reclassification to a position referenced in subsection (2), must be notified by the ~~community~~ college of the employee's eligibility to participate in the optional retirement program in lieu of participation in

the Florida Retirement System. These eligible employees are subject to the provisions of paragraph (b) and may elect to participate in the optional retirement program in the same manner as those employees described in paragraph (b), except that the 90-day 60-day election period commences upon the date notice of eligibility is received by the employee and participation in the program begins the first day of the first full calendar month that the change in status becomes effective.

(d) Program participants must be fully and immediately vested in the optional retirement program upon issuance of an optional retirement program contract.

(e) The election by an eligible employee to participate in the optional retirement program is irrevocable for so long as the employee continues to meet the eligibility requirements set forth in this section and in s. 121.051(2)(c), except as provided in paragraph (i) or as provided in s. 121.051(2)(c)3.

(f) If a program participant becomes ineligible to continue participating in the optional retirement program pursuant to the criteria referenced in subsection (2), the employee becomes a member of the Florida Retirement System if eligible. The college must notify the department of an employee's change in eligibility status within 30 days after the event that makes the employee ineligible to continue participation in the optional retirement program.

(g) An eligible employee who is a member of the Florida Retirement System at the time of election to participate in the optional retirement program retains all retirement service credit earned under the Florida Retirement System at the rate earned. Additional service credit in the Florida Retirement System may not be earned while the employee participates in the optional retirement program, nor is the employee eligible for disability retirement under the Florida Retirement System. An eligible employee may transfer from the Florida Retirement System to his or her accounts under the State Community College Optional Retirement Program a sum representing the present value of his or her service credit accrued under the defined benefit program of the Florida Retirement System for the period between his or her first eligible transfer date from the defined benefit plan to the optional retirement program and the actual date of such transfer as provided in s. 121.051(2)(c)7. Upon such transfer, all such service credit previously earned under the defined benefit program of the Florida Retirement System during this period shall be nullified for purposes of entitlement to a future benefit under the defined benefit program of the Florida Retirement System.

(h) A program participant may not simultaneously participate in any other state-administered retirement system, plan, or class.

(i) Except as provided in s. 121.052(6)(d), a program participant who is or who becomes dually employed in two or more positions covered by the Florida Retirement System, one of which is eligible for an optional retirement program pursuant to this section and one of which is not, is subject to the dual employment provisions of chapter 121.

(4)(a) Each college must contribute on behalf of each program participant an amount equal to 10.43 percent of the participant's gross monthly compensation. The college shall deduct an amount approved by the district board of trustees of the community college to provide for the administration of the optional retirement program. Payment of this contribution must be made either directly by the ~~community~~ college or through the program administrator to the designated company contracting for payment of benefits to the program participant.

(b) Each ~~community~~ college must contribute on behalf of each program participant an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required if the program participant were a member of the Regular Class of the Florida Retirement System. Payment of this contribution must be made directly by the college to the department for deposit in the Florida Retirement System Trust Fund.

(c) Each program participant who has been issued ~~executed~~ an optional retirement program annuity contract may contribute by way of salary reduction or deduction a percentage of the program participant's gross compensation, but this percentage may not exceed the corresponding percentage contributed by the community college to the optional retirement program. Payment of this contribution may be made either directly by the college or through the program administrator to the designated company contracting for payment of benefits to the program participant.

(d) Contributions to an optional retirement program by a college or a program participant are in addition to, and have no effect upon, contributions required now or in future by the federal Social Security Act.

(e) The college may accept for deposit into participant account or accounts contributions in the form of rollovers or direct trustee-to-trustee transfers by or on behalf of participants who are reasonably determined by the college to be eligible for rollover or transfer to the optional retirement program pursuant to the Internal Revenue Code, if such contributions are made in accordance with the applicable requirements of the college. Accounting for such contributions shall be in accordance with any applicable requirements of the Internal Revenue Code and the college.

(5)(a) The benefits to be provided to program participants must be provided through contracts, including individual contracts or individual certificates issued for group annuity or other group annuity contracts, which may be fixed, variable, or both, in accordance with s. 403(b) of the Internal Revenue Code. Each individual contract or certificate must state the type of ~~annuity~~ contract on its face page, and must include at least a statement of ownership, the contract benefits, distribution annuity income options, limitations, expense charges, and surrender charges, if any.

(b) Benefits are payable under the optional retirement program to program participants or their beneficiaries, and the benefits must be paid only by the designated company in accordance with the terms of the ~~annuity~~ contracts applicable to the program participant. Benefits shall accrue in individual accounts that are participant-directed, portable, and funded by employer contributions and the earnings thereon., ~~provided that~~ Benefits

funded by employer contributions are payable in accordance with the following terms and conditions only as a lifetime annuity to the program participant, except for:

1. Benefits shall be payable only to a participant, to his or her beneficiaries, or to his or her estate, as designated by the participant.

2. Benefits shall be paid by the provider company or companies in accordance with the law, the provisions of the contract, and any applicable employer rule or policy.

3. 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, if any, 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 (d). No other death benefits shall be available for survivors of participants under the optional retirement program except for such benefits, or coverage for such benefits, as are separately afforded by the employer at the employer's discretion.

(c) Upon receipt by the provider company of a properly executed application for distribution of benefits, the total accumulated benefits 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 an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the participant;

3. Periodic distributions;

4. A partial lump-sum payment whereby a portion of the accrued benefit is paid to the participant and the remaining amount is transferred to an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the participant; or

5. Such other distribution options as are provided for in the participant's optional retirement program contract.

(d) 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 or beneficiary of a deceased participant whereby all accrued benefits, plus interest and investment earnings, are paid from the deceased participant's account directly to an eligible retirement plan, as described in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the surviving spouse;

3. Such other distribution options as are provided for in the participant's optional retirement program contract; or

4. A partial lump-sum payment whereby a portion of the accrued benefits are paid to the deceased participant's surviving spouse or other designated beneficiaries, less withholding taxes remitted to the Internal Revenue Service, if any, and the remaining amount is transferred directly to an eligible retirement plan, as described in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the surviving spouse. The proportions must be specified by the participant or the surviving beneficiary.

Nothing in this paragraph abrogates other applicable provisions of state or federal law providing payment of death benefits.

~~1. A lump-sum payment to the program participant's beneficiary or estate upon the death of the program participant; or~~

~~2. A cash-out of a de minimis account upon the request of a former program participant who has been terminated for a minimum of 6 months from the employment that caused the participant to be eligible for participation. A de minimis account is an account with a designated company containing employer contributions and accumulated earnings of not more than \$3,500. The cash-out must be a complete liquidation of the account balance with that designated company and is subject to the provisions of the Internal Revenue Code.~~

(e)(e) The benefits payable to any person under the optional retirement program, and any contribution accumulated under the program, are not subject to assignment, execution, attachment, or to any legal process whatsoever.

(6)(a) The optional retirement program authorized by this section must be implemented and administered by the program administrator under s. 403(b) of the Internal Revenue Code. The program administrator has the express authority to contract with a third party to fulfill any of the program administrator's duties.

(b) The program administrator shall solicit competitive bids or issue a request for proposal and select no more than four companies from which optional retirement program annuity contracts may be purchased under the optional retirement program. In making these selections, the program administrator shall consider the following factors:

1. The financial soundness of the company.
2. The extent of the company's experience in providing annuity or other contracts to fund retirement programs.
3. The nature and extent of the rights and benefits provided to program participants in relation to the premiums paid.
4. The suitability of the rights and benefits provided to the needs of eligible employees and the interests of the college in the recruitment and retention of employees.

In lieu of soliciting competitive bids or issuing a request for proposals, the program administrator may authorize the purchase of annuity contracts under the optional retirement program from those companies currently selected by the department to offer such contracts through the State University System Optional Retirement Program, as set forth in s. 121.35.

(c) Optional retirement program annuity contracts must be approved in form and content by the program administrator in order to qualify. The program administrator may use the same annuity contracts currently used within the State University System Optional Retirement Program, as set forth in s. 121.35.

(d) The provision of each annuity contract applicable to a program participant must be contained in a written program description that includes a report of pertinent financial and actuarial information on the solvency and actuarial soundness of the program and the benefits applicable to the program participant. The company must furnish the description annually to the program administrator, and to each program participant upon commencement of participation in the program and annually thereafter.

(e) The program administrator must ensure that each program participant is provided annually with an accounting of the total contributions and the annual contributions made by and on the behalf of the program participant.

Section 9. It is the intent of the Legislature that the costs attributable to the modifications to the retirement laws by this act regarding the reemployment of instructional personnel shall be funded by an increase in payroll contribution rates beginning in fiscal year 2004-2005. For fiscal year 2003-2004 only, the costs of such modifications shall be funded by recognition of excess actuarial assets of the Florida Retirement System Trust Fund not to exceed \$25 million.

Section 10. The contribution rates proposed in this act shall be in addition to all other changes to such contribution rates which may be enacted into law to take effect on July 1, 2003. The Division of Statutory Revision is directed to adjust the contribution rates set forth herein accordingly.

Section 11. This act shall take effect July 1, 2003, except that changes effected by this act to the Deferred Retirement Option Program shall take effect June 1, 2003.

Approved by the Governor June 26, 2003.

Filed in Office Secretary of State June 26, 2003.