

Committee Substitute for Senate Bill No. 420

An act relating to retirement; amending s. 112.0801, F.S.; providing a definition for the term “retiree” for purposes of participation in group insurance; amending s. 121.051, F.S.; revising conditions for membership in the State Community College System Optional Retirement Program; amending s. 121.35, F.S.; revising conditions for membership in the State University System Optional Retirement Program; authorizing transfer of funds for specified earned credit between the Florida Retirement System and such optional retirement program; authorizing a transfer of membership between the State University System Optional Retirement Program and the Florida Retirement System; amending s. 121.4501, F.S.; redefining the term “eligible employee” for purposes of the Public Employee Optional Retirement Program; revising conditions for participation in the Public Employee Optional Retirement Program; providing an effective date.

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

Section 1. Section 112.0801, Florida Statutes, is amended to read:

112.0801 Group insurance; participation by retired employees.—

(1) Any state agency, county, municipality, special district, community college, or district school board which provides life, health, accident, hospitalization, or annuity insurance, or all of any kinds of such insurance, for its officers and employees and their dependents upon a group insurance plan or self-insurance plan shall allow all former personnel who have retired prior to October 1, 1987, as well as those who retire on or after such date, and their eligible dependents, the option of continuing to participate in such group insurance plan or self-insurance plan. Retirees and their eligible dependents shall be offered the same health and hospitalization insurance coverage as is offered to active employees at a premium cost of no more than the premium cost applicable to active employees. For the retired employees and their eligible dependents, the cost of any such continued participation in any type of plan or any of the cost thereof may be paid by the employer or by the retired employees. To determine health and hospitalization plan costs, the employer shall commingle the claims experience of the retiree group with the claims experience of the active employees; and, for other types of coverage, the employer may commingle the claims experience of the retiree group with the claims experience of active employees. Retirees covered under Medicare may be experience-rated separately from the retirees not covered by Medicare and from active employees, provided that the total premium does not exceed that of the active group and coverage is basically the same as for the active group.

(2) For purposes of this section “retiree” means any officer or employee who retires under a state retirement system or a state optional annuity or retirement program or is placed on disability retirement and who begins

receiving retirement benefits immediately after retirement from employment. In addition to these requirements, any officer or employee who retires under the Public Employee Optional Retirement Program established under part II of chapter 121 shall be considered a “retired officer or employee” or “retiree” as used in this section if he or she:

(a) Meets the age and service requirements to qualify for normal retirement as set forth in s. 121.021(29); or

(b) Has attained the age specified by s. 72(t)(2)(A)(i) of the Internal Revenue Code and has 6 years of creditable service.

Section 2. 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 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 program provided by the employing agency under s. 1012.875, to be known as the State Community College System Optional Retirement Program. 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 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. Participation in the optional retirement program shall be limited to those employees who satisfy the following eligibility criteria:

a. The employee must be otherwise eligible for membership or renewed membership in the Regular Class of the Florida Retirement System, as provided in s. 121.021(11) and (12) or s. 121.122.

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. 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. 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.

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, through December 31, 2008, 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 his or her 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 3. Paragraph (a) of subsection (2) and paragraphs (e) and (g) of subsection (3) of section 121.35, Florida Statutes, are amended, and paragraph (i) is added to subsection (3), to read:

121.35 Optional retirement program for the State University System.—

(2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership or renewed membership in the Florida Retirement System and who are employed in one of the following State University System positions:

1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. 110.205(2)(d).

2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. 110.205(2)(d).

3. The Chancellor and the university presidents.

(3) ELECTION OF OPTIONAL PROGRAM.—

(e) The election by an eligible employee to participate in the optional retirement program shall be irrevocable for so long as the employee continues to meet the eligibility requirements specified in subsection (2), except as provided in paragraph (h) or paragraph (i). In the event that an employee participates in the optional retirement program for 90 days or more and is subsequently employed in an administrative or professional position which has been determined by the department, under subparagraph (2)(a)2., to be not otherwise eligible for participation in the optional retirement program, the employee shall continue participation in the optional program so long as the employee meets the other eligibility requirements for the program, except as provided in paragraph (h) or paragraph (i).

(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 shall retain all retirement service credit earned under the Florida Retirement System, at the rate earned. No additional service credit in the Florida Retirement System shall be earned while the employee participates in the optional program, nor shall the employee be 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 University System Optional Retirement Program a sum representing the present value of the employee's accumulated benefit obligation under the defined benefit program of the Florida Retirement System for any service credit accrued from the employee's first eligible transfer date to the

optional retirement program through the actual date of such transfer, if such service credit was earned in the period from July 1, 1984, through December 31, 1992. The present value of the employee's accumulated benefit obligation shall be calculated as described in s. 121.4501(3)(c)2. 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.

(i) Effective January 1, 2008, through December 31, 2008, except for an employee who is a mandatory participant of the State University System Optional Retirement Program, an employee who has elected to participate in the State University System Optional Retirement Program shall have one opportunity, at the employee's discretion, to choose to transfer from this 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 contracts of the State University System Optional Retirement Program.

1. 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 University System Optional Retirement Program shall be retained by the employee in the State University System Optional Retirement Program, and the applicable provisions of s. 121.4501(4) shall govern the election.

2. 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 University System Optional Retirement Program.

a. The cost for such credit shall be an amount representing the actuarial accrued liability for the affected period of service. The cost shall be calculated 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 University System Optional Retirement Program. The actuarial accrued liability 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.

b. The employee must transfer from his or her State University System Optional Retirement Program account, and from other employee moneys as necessary, a sum representing the actuarial accrued liability 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 University System Optional Retirement Program.

Section 4. Paragraph (f) of subsection (2) and paragraph (a) of subsection (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:

(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; or

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.~~

The term does not include any member participating in the Deferred Retirement Option Program established under s. 121.091(13) or a mandatory participant of the State University System Optional Retirement Program ~~or any employee participating in an optional retirement program~~ established under s. 121.35.

(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 the last business day of the 5th month following the month the leave of absence concludes. 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 last business day 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. ~~or s. 121.35(3)(i)~~, 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 or the State University System 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 or the State University System 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. 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.

Section 5. This act shall take effect July 1, 2007.

Approved by the Governor June 12, 2007.

Filed in Office Secretary of State June 12, 2007.