

## House Bill No. 5063

An act relating to retirement; amending s. 112.625, F.S.; revising the definition of the term “statement value”; amending s. 121.021, F.S.; clarifying that the term “compensation” for purposes of the benefit retirement program or the Public Employee Optional Retirement Program of the Florida Retirement System does not include fees or salary payments made from a faculty practice plan authorized by the Board of Governors of the State University System for clinical faculty at a state university having a faculty practice plan; amending s. 121.031, F.S.; revising requirements relating to the actuarial study of the system; amending s. 121.051, F.S.; requiring that a person appointed to a faculty position at a state university having a faculty practice plan participate in the optional retirement program of the State University System rather than the Florida Retirement System; providing definitions; amending s. 121.35, F.S.; requiring the participating employee in the optional retirement program to execute a contract, not just an annuity contract, with a designated company in order for employee contributions to be forwarded to the company and for interest to accrue; defining the term “participant’s gross monthly compensation” for purposes of the optional retirement program for the State University System; creating s. 121.355, F.S.; authorizing certain former participants in the Community College Optional Retirement Program or the State University System Optional Retirement Program and present mandatory participants in the Florida Retirement System to receive a specified amount of service credit under certain conditions; amending s. 121.71, F.S.; revising the payroll contribution rates for the membership classes of the Florida Retirement System for the state fiscal years effective July 1, 2008, and July 1, 2009; providing a declaration of important state interest; providing an effective date.

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

Section 1. Subsection (7) of section 112.625, Florida Statutes, is amended to read:

112.625 Definitions.—As used in this act:

(7) “Statement value” means the value of assets in accordance with s. 302(c)(2) of the Employee Retirement Income Security Act of 1974 and as permitted under regulations prescribed by the Secretary of the Treasury as amended by Pub. L. No. 100-203, as such sections are in effect on August 16, 2006. Assets for which a fair market value is not provided shall be excluded from the assets used in the determination of annual funding cost.

Section 2. Paragraph (b) of subsection (22) of section 121.021, Florida Statutes, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(22) "Compensation" means the monthly salary paid a member by his or her employer for work performed arising from that employment.

(b) Under no circumstances shall compensation for a member participating in the defined benefit retirement program or the Public Employee Optional Retirement Program of the Florida Retirement System include:

1. Fees paid professional persons for special or particular services or include salary payments made from a faculty practice plan authorized by the Board of Governors of the State University System for eligible clinical faculty at a college in a state university that has with a faculty practice plan; or

2. Any bonuses or other payments prohibited from inclusion in the member's average final compensation and defined in subsection (47).

Section 3. Paragraph (a) of subsection (3) of section 121.031, Florida Statutes, is amended to read:

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

(3) The administrator shall cause an actuarial study of the system to be made at least annually and shall report the results of such study to the Legislature by December 31 prior to the next legislative session. The study shall, at a minimum, conform to the requirements of s. 112.63, with the following exceptions and additions:

(a) The valuation of plan assets shall be based on a 5-year averaging methodology such as that specified in the United States Department of Treasury Regulations, 26 C.F.R. s. 1.412(c)(2)-1 in effect on August 16, 2006, or a similar accepted approach designed to attenuate fluctuations in asset values.

Section 4. Paragraph (a) of subsection (1) of section 121.051, Florida Statutes, is amended to read:

121.051 Participation in the system.—

(1) COMPULSORY PARTICIPATION.—

(a) The provisions of this law shall be compulsory as to all officers and employees, except elected officers who meet the requirements of s. 121.052(3), who are employed on or after December 1, 1970, of an employer other than those referred to in paragraph (2)(b), and each officer or employee, as a condition of employment, shall become a member of the system as of his or her date of employment, except that a person who is retired from any state retirement system and is reemployed on or after December 1, 1970, may shall not be permitted to renew his or her membership in any state retirement system except as provided in s. 121.091(4)(h) for a person who recovers from disability, and as provided in s. 121.091(9)(b)8. for a person who is elected to public office, and, effective July 1, 1991, as provided in s. 121.122 for all other retirees. Officers and employees of the University

Athletic Association, Inc., a nonprofit association connected with the University of Florida, employed on and after July 1, 1979, shall not participate in any state-supported retirement system.

1. Any person appointed on or after July 1, 1989, to a faculty position in a college at the J. Hillis Miller Health Center at the University of Florida or the Medical Center at the University of South Florida which has a faculty practice plan provided by rule adopted by the Board of Regents ~~may shall~~ not participate in the Florida Retirement System. Effective July 1, 2008, any person appointed thereafter to a faculty position, including clinical faculty, in a college at a state university that has a faculty practice plan authorized by the Board of Governors may not participate in the Florida Retirement System. A faculty member so appointed shall participate in the optional retirement program for the State University System ~~on the basis of his or her state-funded compensation,~~ notwithstanding the provisions of s. 121.35(2)(a).

2. For purposes of this subparagraph, the term “faculty position” is defined as a position assigned the principal responsibility of teaching, research, or public service activities or administrative responsibility directly related to the academic mission of the college. The term “clinical faculty” is defined as a faculty position appointment in conjunction with a professional position in a hospital or other clinical environment at a college. The term “faculty practice plan” includes professional services to patients, institutions, or other parties which are rendered by the clinical faculty employed by a college that has a faculty practice plan at a state university authorized by the Board of Governors.

Section 5. Paragraph (a) of subsection (4) of section 121.35, Florida Statutes, is amended, and paragraph (g) is added to that subsection, to read:

121.35 Optional retirement program for the State University System.—

(4) CONTRIBUTIONS.—

(a) Through June 30, 2001, each employer shall contribute on behalf of each participant in the optional retirement program an amount equal to the normal cost portion of the employer retirement contribution which would be required if the participant were a regular member of the Florida Retirement System defined benefit program, plus the portion of the contribution rate required in 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 department shall deduct an amount approved by the Legislature to provide for the administration of this program. The payment of the contributions to the optional program which is required by this paragraph for each participant shall be made by the employer to the department, which shall forward the contributions to the designated company or companies contracting for payment of benefits for the participant under the program. However, such contributions paid on behalf of an employee described in paragraph (3)(c) shall not be forwarded to a company and shall not begin to accrue

interest until the employee has executed ~~a~~ an annuity contract and notified the department.

(g) Effective July 1, 2008, for purposes of paragraph (a) and notwithstanding s. 121.021(22)(b)1., the term “participant’s gross monthly compensation” includes salary payments made to eligible clinical faculty from a state university using funds provided by a faculty practice plan authorized by the Board of Governors of the State University System if:

1. There is not any employer contribution from the state university to any other retirement program with respect to such salary payments; and

2. The employer contribution on behalf of the participant in the optional retirement program with respect to such salary payments is made using funds provided by the faculty practice plan.

Section 6. Section 121.355, Florida Statutes, is created to read:

121.355 Community College Optional Retirement Program and State University System Optional Retirement Program member transfer.—Effective January 1, 2009, through December 31, 2009, an employee who is a former participant in the Community College Optional Retirement Program or the State University System Optional Retirement Program and present mandatory participant in the Florida Retirement System defined benefit plan may receive service credit equal to his or her years of service under the Community College Optional Retirement Program or the State University System Optional Retirement Program under the following conditions:

(1) 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 Community College Optional Retirement Program or 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.

(2) The employee must transfer from his or her Community College Optional Retirement Program account or State University System Optional Retirement Program account, subject to the terms of the applicable optional retirement program contract, 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 Community College Optional Retirement Program or State University System Optional Retirement Program.

(3) The employee may not receive service credit for a period of mandatory participation in the State University System Optional Retirement Program or for a

period for which a distribution was received from the Community College Optional Retirement Program or State University System Optional Retirement Program.

Section 7. Subsection (3) of section 121.71, Florida Statutes, is 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:

Membership Class	Percentage of Gross Compensation, Effective July 1, <del>2008</del> 2007	Percentage of Gross Compensation, Effective July 1, <u>2009</u> 2008
Regular Class	8.69%	<u>9.60%</u> <del>9.59%</del>
Special Risk Class	19.76%	<u>22.03%</u> <del>22.01%</del>
Special Risk	11.39%	<u>11.98%</u> <del>11.90%</del>
Administrative Support Class		
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.32%	<u>14.56%</u> <del>14.99%</del>
Elected Officers' Class— Justices, Judges	18.40%	<u>20.37%</u> <del>20.46%</del>
Elected Officers' Class— County Elected Officers	15.37%	<u>17.06%</u> <del>17.15%</del>
Senior Management Class	11.96%	<u>13.36%</u> <del>13.35%</del>
DROP	9.80%	<u>10.96%</u> <del>10.89%</del>

Section 8. 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 determines and declares that this act fulfills an important state interest.

Section 9. This act shall take effect July 1, 2008.

Approved by the Governor June 10, 2008.

Filed in Office Secretary of State June 10, 2008.