

CHAPTER 2012-146

House Bill No. 5005

An act relating to retirement; amending s. 121.051, F.S.; revising employer contributions for members of the Florida Retirement System who are employees of public community colleges or charter technical career centers sponsored by public community colleges on a certain date; amending s. 121.055, F.S.; revising employer contributions for members of the Senior Management Service Class of the Florida Retirement System on a certain date; amending s. 121.35, F.S.; revising employer contributions for members of the optional retirement program for the State University System on a certain date; amending s. 121.71, F.S.; revising the required employer retirement contribution rates for members of each membership class and subclass of the Florida Retirement System; amending s. 121.72, F.S.; revising allocations from the Florida Retirement System Contributions Clearing Trust Fund to investment plan member accounts on a certain date; amending s. 1012.875, F.S.; revising employer contributions for members of the State Community College System Optional Retirement Program on a certain date; providing that the act fulfills an important state interest; providing an effective date.

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 community colleges, 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 s. 1012.875 may, in lieu of participating in the Florida Retirement System, elect to withdraw from the system altogether and participate in the State Community College System Optional Retirement Program provided by the employing agency under s. 1012.875.

1.a. Through June 30, 2001, the cost to the employer for benefits under the optional retirement program equals the normal cost portion of the employer retirement contribution which would be required if the employee were a member of the pension plan's Regular Class, plus the portion of the contribution rate required by s. 112.363(8) which would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund.

b. Effective July 1, 2001, through June 30, 2011, each employer shall contribute on behalf of each member of the optional program an amount

equal to 10.43 percent of the employee's gross monthly compensation. The employer shall deduct an amount for the administration of the program.

c. Effective July 1, 2011, through June 30, 2012, each member shall contribute an amount equal to the employee contribution required under s. 121.71(3). The employer shall contribute on behalf of each program member an amount equal to the difference between 10.43 percent of the employee's gross monthly compensation and the employee's required contribution based on the employee's gross monthly compensation.

d. Effective July 1, 2012, each member shall contribute an amount equal to the employee contribution required under s. 121.71(3). The employer shall contribute on behalf of each program member an amount equal to the difference between 8.15 percent of the employee's gross monthly compensation and the employee's required contribution based on the employee's gross monthly compensation.

~~e.d.~~ The employer 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 the optional retirement program is irrevocable 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 is retained after the member withdraws from the system; however, additional service credit in the system may 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 transfer from the optional retirement program to the pension plan of the Florida Retirement System or to the investment plan established under part II of this chapter, subject to the terms of the applicable optional retirement program contracts.

a. If the employee chooses to move to the investment plan, any contributions, interest, and earnings creditable to the employee under the optional retirement program are retained by the employee in the optional retirement program, and the applicable provisions of s. 121.4501(4) govern the election.

b. If the employee chooses to move to the pension plan of the Florida Retirement System, the employee shall receive service credit equal to his or her years of service under the optional retirement program.

(I) The cost for such credit is the amount representing the present value of the 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 becomes eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to

value the Florida Retirement System Pension Plan liabilities in the most recent actuarial valuation. The calculation must include any service already maintained under the pension plan in addition to the years under the optional retirement program. The present value of any service already maintained must be applied as a credit to total cost resulting from the calculation. The division ~~must~~ 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 optional retirement program account and from other employee moneys as necessary, a sum representing the present value of the employee's accumulated benefit obligation immediately following the time of such movement, determined assuming that attained service equals the sum of service in the pension plan and service in the optional retirement program.

4. Participation in the optional retirement program is limited to employees who satisfy the following eligibility criteria:

a. The employee is 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 is 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 and the community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and the duties and responsibilities of the position include the formulation, interpretation, or implementation of policies, or the performance of functions that are unique or specialized within higher education and that frequently support the mission of the community college.

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

5. Members of the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions applicable to regular members of the Florida Retirement System under ss. 121.091(9), 121.122, and 121.091(5), respectively. A member who receives a program distribution funded by employer and required employee contributions is deemed to be retired from a state-administered retirement system if the member is subsequently employed with an employer that participates in the Florida Retirement System.

6. Eligible community college employees are compulsory members of the Florida Retirement System until, pursuant to s. 1012.875, a written election

to withdraw from the system and participate in the optional retirement program is filed with the program administrator and received by the division.

a. A community college employee whose program eligibility results from initial employment shall be enrolled in the optional retirement program retroactive to the first day of eligible employment. The employer and employee retirement contributions paid through the month of the employee plan change shall be transferred to the community college to 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. A community college employee whose program eligibility is 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., must be enrolled in the program on the first day of the first full calendar month that such change in status becomes effective. The employer and employee retirement contributions paid from the effective date through the month of the employee plan change must be transferred to the community college to 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 member of the optional retirement program who has service credit in the pension plan of the Florida Retirement System for the period between his or her first eligibility to transfer from the pension plan to the optional retirement program and the actual date of transfer may, during employment, transfer to the optional retirement program a sum representing the present value of the accumulated benefit obligation under the defined benefit retirement program for the period of service credit. Upon transfer, all service credit previously earned under the pension plan during this period is nullified for purposes of entitlement to a future benefit under the pension plan.

Section 2. Paragraph (d) of subsection (6) of section 121.055, Florida Statutes, is amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(6)

(d) *Contributions.*—

1.a. Through June 30, 2001, each employer shall contribute on behalf of each member of the Senior Management Service Optional Annuity Program an amount equal to the normal cost portion of the employer retirement contribution which would be required if the member were a Senior Management Service Class member of the Florida Retirement System

Pension Plan, 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.

b. Effective July 1, 2001, through June 30, 2011, each employer shall contribute on behalf of each member of the optional annuity program an amount equal to 12.49 percent of the employee's gross monthly compensation.

c. Effective July 1, 2011, through June 30, 2012, each member of the optional annuity program shall contribute an amount equal to the employee contribution required under s. 121.71(3). The employer shall contribute on behalf of such employee an amount equal to the difference between 12.49 percent of the employee's gross monthly compensation and the amount equal to the employee's required contribution based on the employee's gross monthly compensation.

d. Effective July 1, 2012, each member of the optional annuity program shall contribute an amount equal to the employee contribution required under s. 121.73. The employer shall contribute on behalf of such employee an amount equal to the difference between 9.27 percent of the employee's gross monthly compensation and the amount equal to the employee's required contribution based on the employee's gross monthly compensation.

~~e.d.~~ The department shall deduct an amount approved by the Legislature to provide for the administration of this program. Payment of the contributions, including contributions made by the employee, 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 member under the program.

2. Each employer shall contribute on behalf of each member of the Senior Management Service Optional Annuity Program an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for members of the Senior Management Service Class in the Florida Retirement System. This contribution shall be paid to the department for transfer to the Florida Retirement System Trust Fund.

3. An Optional Annuity Program Trust Fund shall be established in the State Treasury and administered by the department to make payments to provider companies on behalf of the optional annuity program members, and to transfer the unfunded liability portion of the state optional annuity program contributions to the Florida Retirement System Trust Fund.

4. Contributions required for social security by each employer and employee, in the amount required for social security coverage as now or hereafter may be provided by the federal Social Security Act shall be maintained for each member of the Senior Management Service retirement program and are in addition to the retirement contributions specified in this paragraph.

5. Each member of the ~~Senior Management Service~~ optional annuity program may contribute by way of salary reduction or deduction a percentage amount of the employee's gross compensation not to exceed the percentage amount contributed by the employer to the optional annuity program. Payment of the employee's contributions 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 member under the program.

Section 3. Paragraph (a) of subsection (4) of section 121.35, Florida Statutes, is amended to read:

121.35 Optional retirement program for the State University System.

(4) CONTRIBUTIONS.—

(a)1. Through June 30, 2001, each employer shall contribute on behalf of each member of the optional retirement program an amount equal to the normal cost portion of the employer retirement contribution which would be required if the employee were a regular member of the Florida Retirement System Pension Plan, 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.

2. Effective July 1, 2001, through June 30, 2011, each employer shall contribute on behalf of each member of the optional retirement program an amount equal to 10.43 percent of the employee's gross monthly compensation.

3. Effective July 1, 2011, through June 30, 2012, each member of the optional retirement program shall contribute an amount equal to the employee contribution required in s. 121.71(3). The employer shall contribute on behalf of each such member an amount equal to the difference between 10.43 percent of the employee's gross monthly compensation and the amount equal to the employee's required contribution based on the employee's gross monthly compensation.

4. Effective July 1, 2012, each member of the optional retirement program shall contribute an amount equal to the employee contribution required in s. 121.71(3). The employer shall contribute on behalf of each such member an amount equal to the difference between 8.15 percent of the employee's gross monthly compensation and the amount equal to the employee's required contribution based on the employee's gross monthly compensation.

5.4. The payment of the contributions, including contributions by the employee, 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 members of the program. However, such contributions paid on behalf of an employee described in paragraph (3)(c)

may not be forwarded to a company and do not begin to accrue interest until the employee has executed a contract and notified the department. The department shall deduct an amount from the contributions to provide for the administration of this program.

Section 4. Subsections (4) and (5) of section 121.71, Florida Statutes, are amended to read:

121.71 Uniform rates; process; calculations; levy.—

(4) 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, 2012 2011	Percentage of Gross Compensation, Effective July 1, 2013 2012
Regular Class	<u>3.55%</u> 3.28%	<u>3.55%</u> 3.28%
Special Risk Class	<u>11.01%</u> 10.21%	<u>11.01%</u> 10.21%
Special Risk Administrative Support Class	<u>3.94%</u> 4.07%	<u>3.94%</u> 4.07%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>6.51%</u> 7.02%	<u>6.51%</u> 7.02%
Elected Officers' Class— Justices, Judges	<u>10.02%</u> 9.78%	<u>10.02%</u> 9.78%
Elected Officers' Class— County Elected Officers	<u>8.36%</u> 9.27%	<u>8.36%</u> 9.27%
Senior Management Class	<u>4.84%</u> 4.81%	<u>4.84%</u> 4.81%
DROP	<u>4.33%</u> 3.31%	<u>4.33%</u> 3.31%

(5) In order to address unfunded actuarial liabilities of the system, the 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, <u>2012</u> 2011	Percentage of Gross Compensation, Effective July 1, <u>2013</u> 2012
Regular Class	0.49%	<u>2.02%</u> 2.16%
Special Risk Class	2.75%	<u>7.03%</u> 8.21%
Special Risk Administrative Support Class	0.83%	<u>27.04%</u> 21.40%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.88%	<u>27.18%</u> 21.76%
Elected Officers' Class— Justices, Judges	0.77%	<u>16.38%</u> 12.86%
Elected Officers' Class— County Elected Officers	0.73%	<u>23.01%</u> 22.05%
Senior Management Service Class	0.32%	<u>11.25%</u> 10.51%
DROP	0.00%	<u>6.21%</u> 6.36%

Section 5. Subsection (4) of section 121.72, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

121.72 Allocations to investment plan member accounts; percentage amounts.—

(4) Effective July 1, 2002, through June 30, 2012, allocations from the Florida Retirement System Contributions Clearing Trust Fund to investment plan member accounts are as follows:

Membership Class	Percentage of Gross Compensation
Regular Class	9.00%
Special Risk Class	20.00%
Special Risk Administrative Support Class	11.35%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
Elected Officers' Class— Justices, Judges	18.90%

Membership Class	Percentage of Gross Compensation
Elected Officers' Class— County Elected Officers	16.20%
Senior Management Service Class	10.95%

(5) Effective July 1, 2012, allocations from the Florida Retirement System Contributions Clearing Trust Fund to investment plan member accounts are as follows:

<u>Membership Class</u>	<u>Percentage of Gross Compensation</u>
<u>Regular Class</u>	<u>6.30%</u>
<u>Special Risk Class</u>	<u>14.00%</u>
<u>Special Risk Administrative Support Class</u>	<u>7.95%</u>
<u>Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders</u>	<u>9.38%</u>
<u>Elected Officers' Class— Justices, Judges</u>	<u>13.23%</u>
<u>Elected Officers' Class— County Elected Officers</u>	<u>11.34%</u>
<u>Senior Management Service Class</u>	<u>7.67%</u>

Section 6. Paragraph (a) of subsection (4) of section 1012.875, Florida Statutes, is amended to read:

1012.875 State Community College System Optional Retirement Program.—Each Florida College System institution 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 Florida College System institution or by a consortium of Florida College System institutions.

(4)(a)1. Through June 30, 2011, each college must contribute on behalf of each program member an amount equal to 10.43 percent of the employee's gross monthly compensation.

2. Effective July 1, 2011, through June 30, 2012, each member shall contribute an amount equal to the employee contribution required under s. 121.71(3). The employer shall contribute on behalf of each program member

an amount equal to the difference between 10.43 percent of the employee's gross monthly compensation and the employee's required contribution based on the employee's gross monthly compensation.

3. Effective July 1, 2012, each member shall contribute an amount equal to the employee contribution required under s. 121.71(3). The employer shall contribute on behalf of each program member an amount equal to the difference between 8.15 percent of the employee's gross monthly compensation and the employee's required contribution based on the employee's gross monthly compensation.

4.3. The college shall deduct an amount approved by the district board of trustees of the college to provide for the administration of the optional retirement program. Payment of this contribution must be made directly by the college or through the program administrator to the designated company contracting for payment of benefits to the program member.

Section 7. 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 s. 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 8. This act shall take effect July 1, 2012.

Approved by the Governor April 20, 2012.

Filed in Office Secretary of State April 20, 2012.