

## CHAPTER 2016-213

### Senate Bill No. 7012

An act relating to death benefits under the Florida Retirement System; amending s. 121.091, F.S.; authorizing payment of death benefits to the surviving spouse or children of a Special Risk Class member killed in the line of duty under specified circumstances; specifying eligibility; amending s. 121.571, F.S.; conforming provisions to changes made by the act; amending s. 121.591, F.S.; authorizing payment of death benefits to the surviving spouse or surviving children of a Special Risk Class member in the investment plan; establishing qualifications and eligibility requirements in order to receive such benefits; prescribing the method of calculating the benefit; specifying circumstances under which benefit payments are terminated; creating s. 121.5912, F.S.; providing legislative intent; requiring the State Board of Administration or the Division of Retirement to take certain action upon receipt of notification of disqualification from the Internal Revenue Service; authorizing the state board and the Department of Management Services to adopt rules; creating s. 121.735, F.S.; providing for allocations for death benefits authorized by the act; amending ss. 121.71, 121.74, and 121.75, F.S.; conforming cross-references to changes made by the act; requiring the State Board of Administration to transfer moneys to fund survivor benefit payments under specified circumstances; adjusting employer contribution rates in order to fund changes made by the act; providing a directive to the Division of Law Revision and Information; declaring that the act fulfills an important state interest; providing an appropriation; providing an effective date.

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

Section 1. Paragraph (d) of subsection (7) of section 121.091, Florida Statutes, is amended, and paragraph (i) is added to that subsection, 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.

(7) DEATH BENEFITS.—

(d) Notwithstanding any other provision in this chapter to the contrary, with the exception of the Deferred Retirement Option Program, as provided in subsection (13):

1. The surviving spouse of any member killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of death for the rest of the surviving spouse's lifetime or, if the member was vested, such surviving spouse may elect to receive a benefit as provided in paragraph (b). Benefits provided by this paragraph shall supersede any other distribution that may have been provided by the member's designation of beneficiary.

2. If the surviving spouse of a member killed in the line of duty dies, the monthly payments ~~that which~~ would have been payable to such surviving spouse had such surviving spouse lived shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Beginning July 1, 2016, such payments may be extended, for the surviving child of a member in the Special Risk Class at the time he or she was killed in the line of duty on or after July 1, 2013, until the 25th birthday of any child of the member if the child is unmarried and enrolled as a full-time student.

3. If a member killed in the line of duty leaves no surviving spouse but is survived by a child or children under 18 years of age, the benefits provided by subparagraph 1., normally payable to a surviving spouse, shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Beginning July 1, 2016, such monthly payments may be extended, for the surviving child of a member in the Special Risk Class at the time he or she was killed in the line of duty on or after July 1, 2013, until the 25th birthday of any child of the member if the child is unmarried and enrolled as a full-time student.

4. The surviving spouse of a member whose benefit terminated because of remarriage shall have the benefit reinstated beginning July 1, 1993, at an amount that would have been payable had the benefit not been terminated.

(i) Effective July 1, 2016, and notwithstanding any provision in this chapter to the contrary, if a member in the Special Risk Class, other than a participant in the Deferred Retirement Option Program under subsection (13), is killed in the line of duty on or after July 1, 2013, the following benefits are payable in addition to the benefits provided in paragraph (d):

1. The surviving spouse may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of the member's death for the rest of the surviving spouse's lifetime or, if the member was vested, such surviving spouse may elect to receive a benefit as provided in paragraph (b). Benefits provided by this paragraph supersede any other distribution that may have been provided by the member's designation of beneficiary.

2. If the surviving spouse dies, the monthly payments that otherwise would have been payable to such surviving spouse shall be paid for the use and benefit of the member’s child or children under 18 years of age and unmarried until the 18th birthday of the member’s youngest child. Such monthly payments may be extended until the 25th birthday of the member’s child if the child is unmarried and enrolled as a full-time student.

3. If the member leaves no surviving spouse but is survived by a child or children under 18 years of age, the benefits provided by subparagraph 1., normally payable to a surviving spouse, shall be paid for the use and benefit of such member’s child or children under 18 years of age and unmarried until the 18th birthday of the member’s youngest child. Such monthly payments may be extended until the 25th birthday of any of the member’s children if the child is unmarried and enrolled as a full-time student.

Section 2. Subsection (2) of section 121.571, Florida Statutes, is amended to read:

121.571 Contributions.—Contributions to the Florida Retirement System Investment Plan shall be made as follows:

(2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the retirement, ~~and disability, and line-of-duty death~~ benefits provided under this part must be based on the uniform contribution rates established by s. 121.71 and on the membership class or subclass of the member. Such contributions must be allocated as provided in ss. 121.72, ~~and 121.73, and 121.735.~~

Section 3. Subsection (3) of section 121.591, Florida Statutes, is amended, present subsection (4) of that section is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

121.591 Payment of benefits.—Benefits may not be paid under the Florida Retirement System Investment Plan unless the member has terminated employment as provided in s. 121.021(39)(a) or is deceased and a proper application has been filed as prescribed by the state board or the department. Benefits, including employee contributions, are not payable under the investment plan for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee’s principal residence, or any other reason except a requested distribution for retirement, a mandatory de minimis distribution authorized by the administrator, or a required minimum distribution provided pursuant to the Internal Revenue Code. The state board or department, as appropriate, may cancel an application for retirement benefits if the member or beneficiary fails to timely provide the information and documents required by this chapter and the rules of the state board and department. In accordance with their respective responsibilities, the state board and the department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application if the

required information or documents are not received. The state board and the department, as appropriate, are authorized to cash out a de minimis account of a member who has been terminated from Florida Retirement System covered employment for a minimum of 6 calendar months. A de minimis account is an account containing employer and employee contributions and accumulated earnings of not more than \$5,000 made under the provisions of this chapter. Such cash-out must be a complete lump-sum liquidation of the account balance, subject to the provisions of the Internal Revenue Code, or a lump-sum direct rollover distribution paid directly to the custodian of an eligible retirement plan, as defined by the Internal Revenue Code, on behalf of the member. Any nonvested accumulations and associated service credit, including amounts transferred to the suspense account of the Florida Retirement System Investment Plan Trust Fund authorized under s. 121.4501(6), shall be forfeited upon payment of any vested benefit to a member or beneficiary, except for de minimis distributions or minimum required distributions as provided under this section. If any financial instrument issued for the payment of retirement benefits under this section is not presented for payment within 180 days after the last day of the month in which it was originally issued, the third-party administrator or other duly authorized agent of the state board shall cancel the instrument and credit the amount of the instrument to the suspense account of the Florida Retirement System Investment Plan Trust Fund authorized under s. 121.4501(6). Any amounts transferred to the suspense account are payable upon a proper application, not to include earnings thereon, as provided in this section, within 10 years after the last day of the month in which the instrument was originally issued, after which time such amounts and any earnings attributable to employer contributions shall be forfeited. Any forfeited amounts are assets of the trust fund and are not subject to chapter 717.

(3) **DEATH BENEFITS.**—Under the Florida Retirement System Investment Plan:

(a) Survivor benefits are payable in accordance with the following terms and conditions, except as provided in subsection (4):

1. To the extent vested, benefits are payable only to a member's beneficiary or beneficiaries as designated by the member as provided in s. 121.4501(20).

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

3. To receive benefits, the member must be deceased.

(b) Except as provided in subsection (4), in the event of a member's death, all vested accumulations as described in s. 121.4501(6), less withholding taxes remitted to the Internal Revenue Service, shall be distributed, as provided in paragraph (c) or as described in s. 121.4501(20), as if the

member retired on the date of death. No other death benefits are available for survivors of members, except for benefits, or coverage for benefits, as are otherwise provided by law or separately provided by the employer, at the employer's discretion.

(c) Except as provided in subsection (4), upon receipt by the third-party administrator of a properly executed application for distribution of benefits, the total accumulated benefit is payable by the third-party administrator to the member's surviving beneficiary or beneficiaries, as:

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

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

3. A partial lump-sum payment whereby a portion of the accrued benefit is paid to the deceased member's surviving spouse or other designated beneficiaries, less withholding taxes remitted to the Internal Revenue Service, and the remaining amount is transferred directly to the custodian of an eligible retirement plan, if permitted, 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 member or the surviving beneficiary.

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

(4) DEATH BENEFITS FOR SPECIAL RISK CLASS MEMBERS.—Benefits are provided under this subsection to the spouse and child or children of members in the Special Risk Class when such members are killed in the line of duty and are payable in lieu of the benefits that would otherwise be payable under subsection (1) or subsection (3). Benefits provided by this subsection supersede any other distribution that may have been provided by the member's designation of beneficiary. Such benefits must be funded from employer contributions made under s. 121.571, transferred employee contributions and funds accumulated pursuant to paragraph (a), and interest and earnings thereon.

(a) Transfer of funds.—To qualify to receive monthly benefits under this subsection:

1. All moneys accumulated in the member's account, including vested and nonvested accumulations as described in s. 121.4501(6), must be transferred from such individual accounts to the division for deposit in the survivor benefit account of the Florida Retirement System Trust Fund. Moneys in the survivor benefit account must be accounted for separately.

Earnings must be credited on an annual basis for amounts held in the survivor benefit account of the Florida Retirement System Trust Fund based on actual earnings of the trust fund.

2. If the member has retained retirement credit earned under the pension plan as provided in s. 121.4501(3), a sum representing the actuarial present value of such credit within the Florida Retirement System Trust Fund shall be transferred by the division from the pension plan to the survivor benefit retirement program as implemented under this subsection and shall be deposited in the survivor benefit account of the trust fund.

(b) *Survivor retirement; entitlement.*—An investment plan member who is in the Special Risk Class at the time the member is killed in the line of duty on or after July 1, 2013, regardless of length of creditable service, may have survivor benefits paid as provided in s. 121.091(7)(d) and (i) to:

1. The surviving spouse for the spouse's lifetime; or

2. If there is no surviving spouse or the surviving spouse dies, the member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Such payments may be extended until the 25th birthday of any child of the member if the child is unmarried and enrolled as a full-time student as provided in s. 121.091(7)(d) and (i).

(c) *Survivor benefit retirement effective date.*—The effective retirement date for the surviving spouse or eligible child of a Special Risk Class member who is killed in the line of duty is:

1. The first day of the month following the member's death if the member dies on or after July 1, 2016.

2. July 1, 2016, for a member of the Special Risk Class when killed in the line of duty on or after July 1, 2013, but before July 1, 2016, if the application is received before July 1, 2016; or the first day of the month following the receipt of such application.

If the investment plan account balance has already been paid out to the surviving spouse or the eligible unmarried dependent child or children, the benefit payable shall be actuarially reduced by the amount of the payout.

(d) *Line-of-duty death benefit.*—

1. The following individuals are eligible to receive a retirement benefit under s. 121.091(7)(d) and (i) if the member's account balance is surrendered and an application is received and approved:

a. The surviving spouse.

b. If there is no surviving spouse or the surviving spouse dies, the member's child or children under 18 years of age and unmarried until the

18th birthday of the member's youngest child, or until the 25th birthday of the member's child if the child is unmarried and enrolled as a full-time student.

2. Such surviving spouse or such child or children shall receive a monthly survivor benefit that begins accruing on the first day of the month of survivor benefit retirement, as approved by the division, and is payable on the last day of that month and each month thereafter during the surviving spouse's lifetime or on behalf of the unmarried children of the member until the 18th birthday of the youngest child, or until the 25th birthday of any of the member's unmarried children who are enrolled as full-time students. Survivor benefits must be paid out of the survivor benefit account of the Florida Retirement System Trust Fund established under this subsection.

If the investment plan account balance has already been paid out to the surviving spouse or the eligible unmarried dependent child or children, the benefit payable shall be actuarially reduced by the amount of the payout.

(e) Computation of survivor benefit retirement benefit.—The amount of each monthly payment must be calculated as provided under s. 121.091(7)(d) and (i).

(f) Death of the surviving spouse or children.—

1. Upon the death of a surviving spouse, the monthly benefits shall be paid through the last day of the month of death and shall terminate or be paid on behalf of the unmarried child or children until the 18th birthday of the youngest child, or the 25th birthday of any of the member's unmarried children who are enrolled as full-time students.

2. If the surviving spouse dies and the benefits are being paid on behalf of the member's unmarried children as provided in subparagraph 1., benefits shall be paid through the last day of the month until the later of the month the youngest child reaches his or her 18th birthday, the month of the 25th birthday of any of the member's unmarried children enrolled as full-time students, or the month of the death of the youngest child.

Section 4. Section 121.5912, Florida Statutes, is created to read:

121.5912 Survivor benefit retirement program; qualified status; rule-making authority.—It is the intent of the Legislature that the survivor benefit retirement program for Special Risk Class members of the Florida Retirement System investment plan meet all applicable requirements for a qualified plan. If the state board or the division receives notification from the Internal Revenue Service that this program or any portion of this program will cause the retirement system, or any portion thereof, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply. Upon such notice, the state board or the division shall notify the presiding officers of the Legislature. The state

board and the department may adopt any rules necessary to maintain the qualified status of the survivor benefit retirement program.

Section 5. Section 121.735, Florida Statutes, is created to read:

121.735 Allocations for member line-of-duty death benefits; percentage amounts.—

(1) The allocations established in subsection (3) shall be used to provide line-of-duty death benefit coverage for Special Risk Class members in the investment plan and shall be transferred monthly by the division from the Florida Retirement System Contributions Clearing Trust Fund to the survivor benefit account of the Florida Retirement System Trust Fund.

(2) Such allocations are stated as a percentage of each investment plan member’s gross compensation for the calendar month. Any change in a contribution percentage is effective the first day of the month for which retirement contributions may be made on or after the beginning date of the change. Contribution percentages may be modified by general law.

(3) Effective July 1, 2016, allocations from the Florida Retirement System Contributions Clearing Trust Fund to provide line-of-duty death benefits for Special Risk Class members in the investment plan and to offset the costs of administering said coverage, are as follows:

|                           |   |
|---------------------------|---|
| <u>Membership Class</u>   | <u>Percentage of</u><br><u>Gross Compensation</u> |
| <u>Special Risk Class</u> | <u>0.82%</u>                                      |

Section 6. Subsection (1) of section 121.71, Florida Statutes, is amended to read:

121.71 Uniform rates; process; calculations; levy.—

(1) In conducting the system actuarial study required under s. 121.031, the actuary shall follow all requirements specified to determine, by Florida Retirement System employee membership class, the dollar contribution amounts necessary for the next fiscal year for the pension plan. In addition, the actuary shall determine, by Florida Retirement System membership class, based on an estimate for the next fiscal year of the gross compensation of employees participating in the investment plan, the dollar contribution amounts necessary to make the allocations required under ss. 121.72, ~~and 121.73, and 121.735~~. For each employee membership class and subclass, the actuarial study must establish a uniform rate necessary to fund the benefit obligations under both Florida Retirement System retirement plans by dividing the sum of total dollars required by the estimated gross compensation of members in both plans.

Section 7. Section 121.74, Florida Statutes, is amended to read:

121.74 Administrative and educational expenses.—In addition to contributions required to fund member accounts under s. ~~121.71~~ ss. ~~121.71~~ and ~~121.73~~, effective July 1, 2010, through June 30, 2014, employers participating in the Florida Retirement System shall contribute an employer assessment amount equal to 0.03 percent of the payroll reported for each class or subclass of Florida Retirement System membership. Effective July 1, 2014, the employer assessment is 0.04 percent of the payroll reported for each class or subclass of membership. The amount assessed 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 investment plan and the costs of providing educational services to members of the Florida Retirement System. Approval of the trustees is required before 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 8. Section 121.75, Florida Statutes, is amended to read:

121.75 Allocation for pension plan.—After making the transfers required pursuant to ss. 121.71, 121.72, 121.73, 121.735, and 121.74, the monthly balance of funds in the Florida Retirement System Contributions Clearing Trust Fund shall be transferred to the Florida Retirement System Trust Fund to pay the costs of providing pension plan benefits and plan administrative costs under the pension plan.

Section 9. For the 2016-2017 fiscal year only, upon notification by the Department of Management Services that sufficient funds are not available to make survivor benefit payments authorized by this act, the State Board of Administration shall transfer, to the extent necessary, moneys in the Administrative Trust Fund to the survivor benefits account in the Florida Retirement System Trust Fund to ensure the timely payment of survivor benefits.

Section 10. (1) In order to fund the benefit changes provided in this act, the required employer contribution rates for members of the Florida Retirement System established in s. 121.71(4), Florida Statutes, are adjusted as follows:

- (a) The Special Risk Class is increased by 0.45 percentage point; and
- (b) The Deferred Retirement Option Program is increased by 0.06 percentage point.

(2) In order to fund the benefit changes provided in this act, the required employer contribution rate for the unfunded actuarial liability of the Florida Retirement System established in s. 121.71(5), Florida Statutes, for the Special Risk Class is increased by 0.13 percentage point.

(3) The adjustments provided in subsections (1) and (2) are in addition to any other changes to such contribution rates which may be enacted into law to take effect on July 1, 2016. The Division of Law Revision and Information is directed to adjust accordingly the contribution rates provided in s. 121.71, Florida Statutes.

Section 11. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and of its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits that are managed, administered, and funded in an actuarially sound manner, as required by 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 12. For the 2016-2017 fiscal year, the recurring sums of \$5,445,537 from the General Revenue Fund and \$1,062,991 from trust funds are appropriated to Administered Funds in order to fund the increased employer contribution rates to be paid under this act by state agencies, state universities, state colleges, and school districts.

Section 13. This act shall take effect July 1, 2016.

Approved by the Governor April 8, 2016.

Filed in Office Secretary of State April 8, 2016.