

## Committee Substitute for Senate Bill No. 1670

An act relating to state financial matters; amending s. 121.4501, F.S.; revising the method for calculating interest on certain moneys transferred between retirement accounts; providing for credit for military service of members of the Public Employee Optional Retirement Program; amending s. 121.591, F.S.; prescribing procedures to follow if a participant in the Public Employee Optional Retirement Program receives an invalid distribution; amending s. 215.47, F.S.; revising standards for determining eligibility of specified savings accounts, certificates of deposit, time drafts, bills of exchange, bonds, notes, and other instruments for investment by the State Board of Administration; amending s. 1002.36, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 121.4501, Florida Statutes, is amended, and subsection (22) is added to that section, to read:

121.4501 Public Employee Optional Retirement Program.—

(3) ELIGIBILITY; RETIREMENT SERVICE CREDIT.—

(c)1. Notwithstanding paragraph (b), each eligible employee who elects to participate in the Public Employee Optional Retirement Program and establishes one or more individual participant accounts under the optional program may elect to transfer to the optional program a sum representing the present value of the employee's accumulated benefit obligation under the defined benefit retirement program of the Florida Retirement System. Upon such transfer, all service credit previously earned under the defined benefit program of the Florida Retirement System shall be nullified for purposes of entitlement to a future benefit under the defined benefit program of the Florida Retirement System. A participant is precluded from transferring the accumulated benefit obligation balance from the defined benefit program upon the expiration of the period afforded to enroll in the optional program.

2. For purposes of this subsection, the present value of the member's accumulated benefit obligation is based upon the member's estimated creditable service and estimated average final compensation under the defined benefit program, subject to recomputation under subparagraph 3. For state employees enrolling under subparagraph (4)(a)1., initial estimates will be based upon creditable service and average final compensation as of midnight on June 30, 2002; for district school board employees enrolling under subparagraph (4)(b)1., initial estimates will be based upon creditable service and average final compensation as of midnight on September 30, 2002; and for local government employees enrolling under subparagraph (4)(c)1., initial estimates will be based upon creditable service and average final compensation as of midnight on December 31, 2002. The dates respectively

specified above shall be construed as the “estimate date” for these employees. The actuarial present value of the employee’s accumulated benefit obligation shall be based on the following:

a. The discount rate and other relevant actuarial assumptions used to value the Florida Retirement System Trust Fund at the time the amount to be transferred is determined, consistent with the factors provided in subparagraphs b. and c.

b. A benefit commencement age, based on the member’s estimated creditable service as of the estimate date. The benefit commencement age shall be the younger of the following, but shall not be younger than the member’s age as of the estimate date:

(I) Age 62; or

(II) The age the member would attain if the member completed 30 years of service with an employer, assuming the member worked continuously from the estimate date, and disregarding any vesting requirement that would otherwise apply under the defined benefit program of the Florida Retirement System.

c. For members of the Special Risk Class and for members of the Special Risk Administrative Support Class entitled to retain special risk normal retirement date, the benefit commencement age shall be the younger of the following, but shall not be younger than the member’s age as of the estimate date:

(I) Age 55; or

(II) The age the member would attain if the member completed 25 years of service with an employer, assuming the member worked continuously from the estimate date, and disregarding any vesting requirement that would otherwise apply under the defined benefit program of the Florida Retirement System.

d. The calculation shall disregard vesting requirements and early retirement reduction factors that would otherwise apply under the defined benefit retirement program.

3. For each participant who elects to transfer moneys from the defined benefit program to his or her account in the optional program, the division shall recompute the amount transferred under subparagraph 2. not later than 60 days after the actual transfer of funds based upon the participant’s actual creditable service and actual final average compensation as of the initial date of participation in the optional program. If the recomputed amount differs from the amount transferred under subparagraph 2. by \$10 or more, the division shall:

a. Transfer, or cause to be transferred, from the Florida Retirement System Trust Fund to the participant’s account in the optional program the excess, if any, of the recomputed amount over the previously transferred amount together with interest from the initial date of transfer to the date

of transfer under this subparagraph, based upon ~~8 percent~~ effective annual interest equal to the assumed return on the actuarial investment which was used in the most recent actuarial valuation of the system, compounded annually.

b. Transfer, or cause to be transferred, from the participant's account to the Florida Retirement System Trust Fund the excess, if any, of the previously transferred amount over the recomputed amount, together with interest from the initial date of transfer to the date of transfer under this subparagraph, based upon 6 percent effective annual interest, compounded annually, pro rata based on the participant's allocation plan.

4. As directed by the participant, the board shall transfer or cause to be transferred the appropriate amounts to the designated accounts. The board shall establish transfer procedures by rule, but the actual transfer shall not be later than 30 days after the effective date of the member's participation in the optional program unless the major financial markets for securities available for a transfer are seriously disrupted by an unforeseen event which also causes the suspension of trading on any national securities exchange in the country where the securities were issued. In that event, such 30-day period of time may be extended by a resolution of the trustees. Transfers are not commissionable or subject to other fees and may be in the form of securities or cash as determined by the state board. Such securities shall be valued as of the date of receipt in the participant's account.

5. If the board or the division receives notification from the United States Internal Revenue Service that this paragraph or any portion of this paragraph will cause the retirement system, or a portion thereof, to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply. Upon such notice, the state board and the division shall notify the presiding officers of the Legislature.

(22) CREDIT FOR MILITARY SERVICE.—Creditable service of any member of the Public Employee Optional Retirement Program shall include military service in the Armed Forces of the United States as provided in the conditions outlined in s. 121.111(1).

Section 2. Paragraph (a) of subsection (1) of section 121.591, Florida Statutes, is amended to read:

121.591 Benefits payable under the Public Employee Optional Retirement Program of the Florida Retirement System.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or is deceased and a proper application has been filed in the manner prescribed by the state board or the department. The state board or department, as appropriate, 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 rules of the state board and department. In accordance with their respective responsibilities as provided herein, the State Board of Administration and the Department of Management Services 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. The State

Board of Administration and the Department of Management Services, as appropriate, are authorized to cash out a de minimis account of a participant 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 contributions and accumulated earnings of not more than \$5,000 made under the provisions of this chapter. Such cash-out must either 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 participant. 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 of Administration shall cancel the instrument and credit the amount of the instrument to the suspense account of the Public Employee Optional Retirement Program Trust Fund authorized under s. 121.4501(6). Any such 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 thereon shall be forfeited. Any such forfeited amounts are assets of the Public Employee Optional Retirement Program Trust Fund and are not subject to the provisions of chapter 717.

(1) **NORMAL BENEFITS.**—Under the Public Employee Optional Retirement Program:

(a) Benefits in the form of vested accumulations as described in s. 121.4501(6) shall be payable under this subsection in accordance with the following terms and conditions:

1. To the extent vested, benefits shall be payable only to a participant.
2. Benefits shall be paid by the third-party administrator or designated approved providers in accordance with the law, the contracts, and any applicable board rule or policy.
3. To receive benefits under this subsection, the participant must be terminated from all employment with all Florida Retirement System employers, as provided in s. 121.021(39).
4. Benefit payments may not be made until the participant has been terminated for 3 calendar months, except that the board may authorize by rule for the distribution of up to 10 percent of the participant's account after being terminated for 1 calendar month if a participant has reached the normal retirement requirements of the defined benefit plan, as provided in s. 121.021(29).

5. If a member or former member of the Florida Retirement System receives an invalid distribution from the Public Employee Optional Retirement Program Trust Fund, such person shall repay the full invalid distribution to the trust fund within 90 days after receipt of final notification by the

State Board of Administration or the third-party administrator that the distribution was invalid. If such person fails to repay the full invalid distribution within 90 days after receipt of final notification, the person may be deemed retired from the Public Employee Optional Retirement Program by the state board, as provided pursuant to s. 121.4501(2)(j), and shall be subject to the provisions of s. 121.122. If such person is deemed retired by the state board, any joint and several liability set out in s. 121.091(9)(c)2. becomes null and void, and the state board, the Department of Management Services, or the employing agency are not liable for gains on payroll contributions that have not been deposited to the person's account in the Public Employee Optional Retirement Program, pending resolution of the invalid distribution. The member or former member who has been deemed retired or who has been determined by the board to have taken an invalid distribution may appeal the agency decision through the complaint process as provided under s. 121.4501(9)(f)3. As used in this subparagraph, the term "invalid distribution" means any distribution from an account in the Public Employee Optional Retirement Program which is taken in violation of the provisions of this section, s. 121.091(9), or s. 121.4501.

Section 3. Subsections (1), (2), and (5) of section 215.47, Florida Statutes, are amended, and subsection (17) is added to that section, to read:

215.47 Investments; authorized securities; loan of securities.—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

(1) Without limitation in:

(a) Bonds, notes, or other obligations of the United States or those guaranteed by the United States or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof.

(b) State bonds pledging the full faith and credit of the state and revenue bonds additionally secured by the full faith and credit of the state.

(c) Bonds of the several counties or districts in the state containing a pledge of the full faith and credit of the county or district involved.

(d) Bonds issued or administered by the State Board of Administration secured solely by a pledge of all or part of the 2-cent constitutional fuel tax accruing under the provisions of s. 16, Art. IX of the State Constitution of 1885, as amended, or of s. 9, Art. XII of the 1968 revised State Constitution.

(e) Bonds issued by the State Board of Education pursuant to ss. 18 and 19, Art. XII of the State Constitution of 1885, as amended, or to s. 9, Art. XII of the 1968 revised State Constitution, as amended.

(f) Bonds issued by the Florida Outdoor Recreational Development Council pursuant to s. 17, Art. IX of the State Constitution of 1885, as amended.

(g) Bonds issued by the Florida State Improvement Commission, Florida Development Commission, Division of Bond Finance of the Department of

General Services, or Division of Bond Finance of the State Board of Administration.

(h) Savings accounts in, or certificates of deposit of, any bank, savings bank, or savings and loan association incorporated under the laws of this state or organized under the laws of the United States doing business and situated in this state, the accounts of which are insured by the Federal Government or an agency thereof and having a prime quality of the highest letter and numerical ratings as provided for by at least one nationally recognized statistical rating organization, ~~in an amount that does not exceed 15 percent of the net worth of the institution, or a lesser amount as determined by rule by the State Board of Administration,~~ provided such savings accounts and certificates of deposit are secured in the manner prescribed in chapter 280.

(i) Notes, bonds, and other obligations of agencies of the United States.

(j) Commercial paper of prime quality of the highest letter and numerical rating as provided for by at least one nationally recognized rating service.

(k) Time drafts or bills of exchange drawn on and accepted by a commercial bank, otherwise known as banker's acceptances, which are accepted by a member bank of the Federal Reserve System and are of prime quality of the highest letter and numerical ratings as provided for by at least one nationally recognized statistical rating organization ~~having total deposits of not less than \$400 million.~~

(l) Negotiable certificates of deposit issued by domestic or foreign financial institutions in United States dollars of prime quality of the highest letter and numerical ratings as provided for by at least one nationally recognized statistical rating organization.

(m) Short-term obligations not authorized elsewhere in this section to be purchased individually or in pooled accounts or other collective investment funds, for the purpose of providing liquidity to any fund or portfolio.

(n) Securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided that the portfolio of such investment company or investment trust is limited to obligations of the United States Government or any agency or instrumentality thereof and to repurchase agreements fully collateralized by such United States Government obligations and provided that such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian.

(2) With no more than 25 percent of any fund in:

(a) Bonds, notes, or obligations of any municipality or political subdivision or any agency or authority of this state, if the obligations are rated investment grade by at least one nationally recognized statistical rating organization ~~such obligations are rated in any one of the three highest ratings by two nationally recognized rating service.~~ However, if only one

~~nationally recognized rating service shall rate such obligations, then such rating service must have rated such obligations in any one of the two highest classifications heretofore mentioned.~~

(b) ~~Notes secured by first mortgages on Florida real property, insured or guaranteed by the Federal Housing Administration or the United States Department of Veterans Affairs.~~

~~(c) Investments collateralized by first mortgages covering single family Florida residences, provided such mortgages do not exceed \$60,000, do not exceed 80 percent of value, are not delinquent, and are originated by a lender regulated by the state or Federal Government and the aggregate of the collateral furnished is at least 150 percent of the aggregate investment under this subsection. The mortgages used for collateral shall be segregated by the lending institution so that such segregation may be confirmed by independent audit. In the event any such mortgage used as collateral becomes more than 3 months delinquent, the lender shall immediately substitute therefor a mortgage of equal or greater value.~~

~~(c)(d) Mortgage securities which represent participation in or are collateralized by mortgage loans secured by real property. Such securities must be issued by an agency of or enterprise sponsored by the United States Government, including, but not limited to, the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.~~

~~(d)(e) Group annuity contracts of the pension investment type with insurers licensed to do business in this state which are rated investment grade by at least one nationally recognized rating service, except that amounts invested by the board with any one insurer shall not exceed 3 percent of its assets.~~

~~(e)(f) Certain interests in real property and related personal property, including mortgages and related instruments on commercial or industrial real property, with provisions for equity or income participation or with provisions for convertibility to equity ownership; and interests in collective investment funds. Associated expenditures for acquisition and operation of assets purchased under this provision or of investments in private equity or other private investment partnerships or limited liability companies shall be included as a part of the cost of the investment.~~

1. The title to real property acquired under this paragraph shall be vested in the name of the respective fund.

2. For purposes of taxation of property owned by any fund, the provisions of s. 196.199(2)(b) do not apply.

3. Real property acquired under the provisions of this paragraph shall not be considered state lands or public lands and property as defined in chapter 253, and the provisions of that chapter do not apply to such real property.

~~(f)(g) Fixed-income obligations not otherwise authorized by this section issued by foreign governments or political subdivisions or agencies thereof,~~

supranational agencies, foreign corporations, or foreign commercial entities, if the obligations are rated investment grade by at least one nationally recognized rating service.

(g)(h) A portion of the funds available for investment pursuant to this subsection may be invested in rated or unrated bonds, notes, or instruments backed by the full faith and credit of the government of Israel.

(h)(i) Obligations of agencies of the government of the United States, provided such obligations have been included in and authorized by the Florida Retirement System Defined Benefit Plan Investment Policy Statement established in s. 215.475.

(i)(j) United States dollar-denominated obligations issued by foreign governments, or political subdivisions or agencies thereof, supranational agencies, foreign corporations, or foreign commercial entities.

(j)(k) Asset-backed securities not otherwise authorized by this section.

(5) With no more than ~~25~~ 20 percent of any fund in corporate obligations and securities of any kind of a foreign corporation or a foreign commercial entity having its principal office located in any country other than the United States of America or its possessions or territories, not including United States dollar-denominated securities listed and traded on a United States exchange which are a part of the ordinary investment strategy of the board.

(17) The State Board of Administration may sell short any of the securities and investments authorized under this section.

Section 4. Paragraph (e) of subsection (4) of section 1002.36, Florida Statutes, is amended to read:

1002.36 Florida School for the Deaf and the Blind.—

(4) BOARD OF TRUSTEES.—

(e) The board of trustees is invested with full power and authority to:

1. Appoint a president, faculty, teachers, and other employees and remove the same as in its judgment may be best and fix their compensation.

2. Procure professional services, such as medical, mental health, architectural, and engineering.

3. Procure legal services without the prior written approval of the Attorney General.

4. Determine eligibility of students and procedure for admission.

5. Provide for the students of the school necessary bedding, clothing, food, and medical attendance and such other things as may be proper for the health and comfort of the students without cost to their parents, except that the board of trustees may set tuition and other fees for nonresidents.



6. Provide for the proper keeping of accounts and records and for budgeting of funds.

7. Enter into contracts.

8. Sue and be sued.

9. Secure public liability insurance.

10. Do and perform every other matter or thing requisite to the proper management, maintenance, support, and control of the school at the highest efficiency economically possible, the board of trustees taking into consideration the purposes of the establishment.

11. Receive gifts, donations, and bequests of money or property, real or personal, tangible or intangible, from any person, firm, corporation, or other legal entity. However, the board of trustees may not obligate the state to any expenditure or policy that is not specifically authorized by law. If the bill of sale, will, trust indenture, deed, or other legal conveyance specifies terms and conditions concerning the use of such money or property, the board of trustees shall observe such terms and conditions.

12. Deposit outside the State Treasury such moneys as are received as gifts, donations, or bequests and may disburse and expend such moneys, upon its own warrant, for the use and benefit of the Florida School for the Deaf and the Blind and its students, as the board of trustees deems to be in the best interest of the school and its students. Such money or property shall not constitute or be considered a part of any legislative appropriation, and such money shall not be used to compensate any person for engaging in lobbying activities before the House of Representatives or Senate or any committee thereof.

13. Sell or convey by bill of sale, deed, or other legal instrument any property, real or personal, received as a gift, donation, or bequest, upon such terms and conditions as the board of trustees deems to be in the best interest of the school and its students.

14. Invest such moneys in securities enumerated under s. 215.47(1), (2)(c) ~~(2)(d)~~, (3), (4), and (9), and in The Common Fund, an Investment Management Fund exclusively for nonprofit educational institutions.

Section 5. This act shall take effect July 1, 2006.

Approved by the Governor June 13, 2006.

Filed in Office Secretary of State June 13, 2006.