

CHAPTER 2011-68

Senate Bill No. 2100

An act relating to retirement; amending ss. 110.123, 112.0801, 112.363, 112.65, and 121.011, F.S.; conforming provisions to changes made by the act; amending s. 121.021, F.S.; revising definitions; amending s. 121.051, F.S.; requiring that a local governmental entity or the governing body of a charter school or charter technical career center make certain elections regarding benefits at the time the entity or governing body joins the Florida Retirement System; requiring employee retirement contributions; providing that employer-paid employee contributions are subject to certain taxes; amending s. 121.0515, F.S.; redefining membership in the Special Risk Class; redefining criteria for Special Risk Class membership; providing for employee contributions to be used, if applicable, when purchasing credit for past service; amending s. 121.052, F.S., relating to the membership class of elected officers; conforming provisions to changes made by the act; requiring member contributions; providing for a refund of contributions under certain circumstances for an officer who leaves office; providing that a member who obtains a refund of contributions waives certain rights under the Florida Retirement System; amending s. 121.053, F.S.; clarifying the employer contributions required for Elected Officers' Class members who participate in the Deferred Retirement Option Program; amending s. 121.055, F.S., relating to the Senior Management Service Class; conforming provisions to changes made by the act; requiring employee contributions; providing for a refund of contributions under certain circumstances for a member who terminates employment; providing that a member who obtains a refund of contributions waives certain rights under the Florida Retirement System; limiting the payment of benefits prior to a participant's termination of employment; amending s. 121.061, F.S.; conforming provisions to changes made by the act; amending s. 121.071, F.S.; requiring employer and employee contributions to the retirement system; providing for a refund of contributions under certain circumstances following termination of employment; prohibiting such refund if an approved qualified domestic relations order is filed against the participant's retirement account; providing that a member who obtains a refund of contributions waives certain rights under the Florida Retirement System; requiring repayment plus interest of an invalid refund; amending s. 121.081, F.S.; providing and revising requirements for contributions for prior service performed on or after a certain date; amending s. 121.091, F.S.; modifying the early retirement benefit calculation for those members retiring on or after a certain date or before the normal retirement date to reflect the change in normal retirement age; revising provisions relating to disability retirement for judges; providing for the refund of accumulated contributions if a member's employment is terminated for any reason other than retirement; revising the interest rate on benefits for members enrolling in drop after a certain date; conforming provisions to changes made by the act; amending s. 121.1001, F.S.;

conforming provisions to changes made by the act; amending s. 121.101, F.S.; revising the cost-of-living adjustment depending on the date of retirement; amending s. 121.1115, F.S.; conforming provisions to changes made by the act; amending s. 121.1122, F.S.; conforming provisions to changes made by the act; amending s. 121.121, F.S.; requiring that the purchase of creditable service following an authorized leave of absence be purchased at the employer and employee contribution rates in effect during the leave of absence after a certain date; amending s. 121.125, F.S.; requiring that a penalty be assessed against certain employers that fail to pay the required contributions for workers' compensation; reenacting s. 121.161, F.S.; conforming provisions to changes made by the act; amending s. 121.182, F.S.; conforming provisions to changes made by the act; amending s. 121.35, F.S., relating to the optional retirement program for the State University System; requiring employee contributions; limiting the payment of benefits before a participant's termination of employment; conforming provisions to changes made by the act; amending s. 121.355, F.S.; conforming provisions to changes made by the act; amending s. 121.4501, F.S.; changing the name of the Public Employee Optional Retirement Program to the Florida Retirement System Investment Plan; requiring members to make certain contributions to the plan; revising and providing definitions; revising the benefit commencement age for a member enrolled on or after a certain date; providing for contribution adjustments as a result of employer errors or corrections; requiring an employer to receive a credit for excess contributions and to reimburse an employee for excess contributions, subject to certain limitations; providing for a pension plan participant to retain his or her prior plan choice following a return to employment; prohibiting a retiree who is reemployed from renewing membership in the plan; limiting certain refunds of contributions which exceed the amount that would have accrued had the member remained in the defined benefit program; providing certain requirements and limitations with respect to contributions; clarifying that participant and employer contributions are earmarked for specified purposes; providing duties of the third-party administrator; providing that a member is fully and immediately vested with respect to employee contributions paid by the member; providing for the forfeiture of nonvested employer contributions and service credit under certain circumstances; conforming provisions to changes made by the act; amending s. 121.4502, F.S.; changing the name of the Public Employee Optional Retirement Program Trust Fund to the Florida Retirement System Investment Plan Trust Fund; amending s. 121.4503, F.S.; providing for the deposit of employee contributions into the Florida Retirement System Contributions Clearing Trust Fund; amending s. 121.571, F.S.; providing requirements for submitting employee contributions; amending s. 121.591, F.S.; limiting the payment of benefits prior to a member's termination of employment; providing for the forfeiture of nonvested accumulations and service credits upon payment of certain vested benefits; providing that the distribution payment method selected by the member or beneficiary is final and irrevocable at the time of benefit distribution; prohibiting a distribution of employee contributions if a qualified domestic relations order is filed

against the participant's account; conforming provisions to changes made by the act; amending s. 121.5911, F.S.; conforming provisions to changes made by the act; amending s. 121.70, F.S.; revising legislative intent; amending s. 121.71, F.S.; requiring that employee contributions be deducted from the employee's monthly salary, beginning on a specified date, and treated as employer contributions under certain provisions of federal law; clarifying that an employee may not receive such contributions directly; specifying the required employee retirement contribution rates for the membership of each membership class and subclass of the Florida Retirement System; specifying the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System in order to address unfunded actuarial liabilities of the system; requiring an assessment to be imposed if the employee contributions remitted are less than the amount required under certain circumstances; providing for the employer to receive a credit for excess contributions remitted and to apply such credit against future contributions owed; amending ss. 121.72, 121.73, 121.74, 121.75, and 121.77, F.S.; conforming provisions to changes made by the act; amending s. 121.78, F.S.; requiring that certain fees be imposed for delinquent payments for retirement contributions; providing that an employer is responsible for recovering any refund provided to an employee in error; revising the terms of an authorized waiver of delinquency; requiring an employer to receive a credit for excess contributions and to reimburse an employee for excess contributions, subject to certain limitations; amending s. 1012.875, F.S.; requiring employer and employee contributions for members of the State Community College System Optional Retirement Program on a certain date; limiting the payment of benefits prior to a participant's termination of employment; requiring the State Board of Administration and the Department of Management Services to request a determination letter and private letter ruling from the United States Internal Revenue Service; providing legislative findings; providing that the act fulfills an important state interest; providing appropriations to and authorizing additional positions for the Division of Retirement within the Department of Management Services; providing effective dates.

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

Section 1. Paragraph (g) of subsection (2) of section 110.123, Florida Statutes, is amended to read:

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in this section, the term:

(g) "Retired state officer or employee" or "retiree" means any state or state university 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 was insured under the state group insurance program at the time of retirement, and who begins receiving retirement benefits immediately after retirement from state or state university office or

employment. ~~The term also includes~~ In addition to these requirements, any state officer or state employee who retires under the Florida Retirement System Investment Plan Public Employee Optional Retirement Program established under part II of chapter 121 shall be considered a “retired state officer or employee” or “retiree” as used in this section if he or she:

1. Meets the age and service requirements to qualify for normal retirement as set forth in s. 121.021(29); or
2. 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. 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 ~~that~~ 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 before~~ 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 the ~~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 ~~if, 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 Florida Retirement System Investment Plan Public Employee Optional Retirement Program established under part II of chapter 121 is 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 the years of service required for vesting as set forth in s. 121.021(45) ~~6 years of creditable service.~~

Section 3. Paragraphs (b) and (c) of subsection (2) and paragraph (e) of subsection (3) of section 112.363, Florida Statutes, are amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.

(b) For purposes of this section, a person is deemed retired from a state-administered retirement system when he or she terminates employment with all employers participating in the Florida Retirement System as described in s. 121.021(39) and:

1. For a ~~member participant~~ of the ~~investment plan Public Employee Optional Retirement Program~~ established under part II of chapter 121, the participant meets the age or service requirements to qualify for normal retirement as set forth in s. 121.021(29) and meets the definition of retiree in s. 121.4501(2).

2. For a member of the Florida Retirement System Pension Plan defined benefit program, or any employee who maintains creditable service under both the pension plan defined benefit program and the investment plan Public Employee Optional Retirement Program, the member begins drawing retirement benefits from the pension plan defined benefit program of the Florida Retirement System.

~~(c)1.~~ Effective July 1, 2001, any person retiring on or after that ~~such~~ date as a member of the Florida Retirement System, including a ~~member any participant~~ of the investment plan defined contribution program administered pursuant to part II of chapter 121, must have satisfied the vesting requirements for his or her membership class under the pension plan Florida Retirement System defined benefit program as administered under part I of chapter 121. However,

~~2.~~ ~~Notwithstanding the provisions of subparagraph 1.,~~ a person retiring due to disability must either qualify for a regular or in-line-of-duty disability benefit as provided in s. 121.091(4) or qualify for a disability benefit under a disability plan established under part II of chapter 121, as appropriate.

(3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

(e)1. Beginning July 1, 2001, each eligible retiree of the pension plan defined benefit program of the Florida Retirement System, or, if the retiree is deceased, his or her beneficiary who is receiving a monthly benefit from such retiree’s account and who is a spouse, or a person who meets the definition of

joint annuitant in s. 121.021(28), shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$5; however, no eligible retiree or beneficiary may receive a subsidy payment of more than \$150 or less than \$30. If there are multiple beneficiaries, the total payment may ~~must~~ not be greater than the payment to which the retiree was entitled. The health insurance subsidy amount payable to any person receiving the retiree health insurance subsidy payment on July 1, 2001, may shall not be reduced solely by operation of this subparagraph.

2. Beginning July 1, 2002, each eligible member participant of the investment plan Public Employee Optional Retirement Program of the Florida Retirement System who has met the requirements of this section, or, if the member participant is deceased, his or her spouse who is the member's participant's designated beneficiary, shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as provided in this subparagraph, completed at the time of retirement, multiplied by \$5; however, an ~~no~~ eligible retiree or beneficiary may not receive a subsidy payment of more than \$150 or less than \$30. For purposes of determining a member's participant's creditable service used to calculate the health insurance subsidy, a member's participant's years of service credit or fraction thereof shall be based on the member's participant's work year as defined in s. 121.021(54). Credit must ~~shall~~ be awarded for a full work year if ~~whenever~~ health insurance subsidy contributions have been made as required by law for each month in the member's participant's work year. In addition, all years of creditable service retained under the Florida Retirement System Pension Plan ~~must defined benefit program~~ shall be included as creditable service for purposes of this section. Notwithstanding any other provision in this section ~~to the contrary~~, the spouse at the time of death is ~~shall be~~ the member's participant's beneficiary unless such member participant has designated a different beneficiary subsequent to the member's participant's most recent marriage.

Section 4. Subsection (1) of section 112.65, Florida Statutes, is amended to read:

112.65 Limitation of benefits.—

(1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit or pension payable to a retiree who becomes a member of any retirement system or plan and who has not previously participated in such plan, on or after January 1, 1980, may ~~shall~~ not exceed 100 percent of his or her average final compensation. However, ~~nothing contained in this section~~ does not ~~shall~~ apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments. For the purposes of this section, benefits accruing in individual member participant accounts established under the investment plan Public Employee Optional Retirement Program established in part II of chapter 121 are considered supplemental benefits. As used in this section, the term “average final

compensation” means the average of the member’s earnings over a period of time which the governmental entity has established by statute, charter, or ordinance.

Section 5. Paragraph (g) of subsection (3) of section 121.011, Florida Statutes, is amended, and paragraph (h) is added to that subsection, to read:

121.011 Florida Retirement System.—

(3) PRESERVATION OF RIGHTS.—

(g) Any member of the Florida Retirement System or any member of an existing system under this chapter who is not retired and who is, has been, or shall be dismissed from employment shall be considered terminated from active membership in such system.

1. If such dismissal is rescinded by proper authority or through legal proceedings, the member is eligible to receive retirement service credit for such period of dismissal if provided:

a. The dismissal action taken against the member is determined to be incorrect and is negated, the employee is made whole for the period of the dismissal or any portion thereof, and employment is reinstated; and

b. The employer pays into the Retirement System Trust Fund the total required employer contributions for the period for which the employee is made whole, plus interest at 6.5 percent compounded annually until full payment is made. The employee shall pay the total employee contributions; plus interest, if applicable. The employer shall pay the interest on employee contributions, if applicable.

2. If the dismissal action is subsequently changed to a suspension by proper authority or through legal proceedings, the member is eligible to receive retirement service credit, provided the member’s employment is reinstated, restoring the employee-employer relationship, and the employee pays the total required employer and employee contributions and complies with all requirements in paragraph (e).

(h) Effective July 1, 2011, the retirement system shall require employer and employee contributions as provided in s. 121.071 and part III of this chapter.

Section 6. Subsections (3), (7), and (15), paragraph (a) of subsection (19), paragraph (b) of subsection (22), and subsections (24), (29), (38), (39), (45), (55), and (59) of section 121.021, Florida Statutes, are 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:

(3) “Florida Retirement System” or “system” means the general retirement system established by this chapter, to be known and cited as the “Florida Retirement System,” including, but not limited to, the defined benefit retirement program administered under the provisions of part I of this part, referred to as the “Florida Retirement System Pension Plan” or “pension plan,” chapter and the defined contribution retirement program known as the Public Employee Optional Retirement Program and administered under the provisions of part II of this chapter, referred to as the “Florida Retirement System Investment Plan” or “investment plan”.

(7) “Division” means the Division of Retirement in the department. “City” means any municipality duly incorporated under the laws of the state.

(15) “Special risk member” or “Special Risk Class member” means a member of the Florida Retirement System who meets the eligibility and criteria required under s. 121.0515 for participation in the Special Risk Class.

(a) ~~Until October 1, 1978, “special risk member” means any officer or employee whose application is approved by the administrator and who receives salary payments for work performed as a peace officer; law enforcement officer; police officer; highway patrol officer; custodial employee at a correctional or detention facility; correctional agency employee whose duties and responsibilities involve direct contact with inmates, but excluding secretarial and clerical employees; firefighter; or an employee in any other job in the field of law enforcement or fire protection if the duties of such person are certified as hazardous by his or her employer.~~

(b) ~~Effective October 1, 1978, “special risk member” means a member of the Florida Retirement System who is designated as a special risk member by the division in accordance with s. 121.0515. Such member must be employed as a law enforcement officer, a firefighter, or a correctional officer and must meet certain other special criteria as set forth in s. 121.0515.~~

(c) ~~Effective October 1, 1999, “special risk member” means a member of the Florida Retirement System who is designated as a special risk member by the division in accordance with s. 121.0515. Such member must be employed as a law enforcement officer, a firefighter, a correctional officer, an emergency medical technician, or a paramedic and must meet certain other special criteria as set forth in s. 121.0515.~~

(d)1. ~~Effective January 1, 2001, “special risk member” includes any member who is employed as a community-based correctional probation officer and meets the special criteria set forth in s. 121.0515(2)(c).~~

2. ~~Effective January 1, 2001, “special risk member” includes any professional health care bargaining unit or non-unit member who is employed by the Department of Corrections or the Department of Children and Family Services and meets the special criteria set forth in s. 121.0515(2)(f).~~

~~(e) Effective July 1, 2001, the term “special risk member” includes any member who is employed as a youth custody officer by the Department of Juvenile Justice and meets the special criteria set forth in s. 121.0515(2)(g).~~

~~(f) Effective August 1, 2008, “special risk member” includes any member who meets the special criteria for continued membership set forth in s. 121.0515(2)(k).~~

(19) “Prior service” under part I of this chapter means:

(a) Service for which the member had credit under one of the existing systems and received a refund of his or her contributions upon termination of employment. Prior service shall also include that service between December 1, 1970, and the date the system becomes noncontributory for which the member had credit under the Florida Retirement System and received a refund of his or her contributions upon termination of employment.

(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 pension plan defined benefit retirement program or the investment plan Public Employee Optional Retirement Program of the Florida Retirement System may not 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 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).~~

(24)(a) “Average final compensation” means:

1. For members initially enrolled before July 1, 2011, the average of the 5 highest fiscal years of compensation for creditable service before prior to retirement, termination, or death. For in-line-of-duty disability benefits, if less than 5 years of creditable service have been completed, the term “average final compensation” means the average annual compensation of the total number of years of creditable service. Each year used to calculate the in the calculation of average final compensation commences shall commence on July 1.

2. For members initially enrolled on or after July 1, 2011, the average of the 8 highest fiscal years of compensation for creditable service before retirement, termination, or death. For in-line-of-duty disability benefits, if less than 8 years of creditable service have been completed, the term means the average annual compensation of the total number of years of creditable

service. Each year used to calculate average final compensation commences on July 1.

(b)(a) The average final compensation includes ~~shall include~~:

1. Accumulated annual leave payments, not to exceed 500 hours; and
2. All payments defined as compensation in subsection (22).

(c)(b) The average final compensation does ~~shall~~ not include:

1. Compensation paid to professional persons for special or particular services;
2. Payments for accumulated sick leave made due to retirement or termination;
3. Payments for accumulated annual leave in excess of 500 hours;
4. Bonuses as defined in subsection (47);
5. Third party payments made on and after July 1, 1990; or
6. Fringe benefits (for example, automobile allowances or housing allowances).

(29) “Normal retirement date” means the date a member attains normal retirement age and is vested, which is determined as follows:

(a)1. If a Regular Class member, a Senior Management Service Class member, or an Elected Officers’ Class member initially enrolled before July 1, 2011:

a.1. ~~The first day of the month the member completes 6 or more years of creditable service and attains age 62; or~~

b.2. The first day of the month following the date the member completes 30 years of creditable service, regardless of age.

2. If a Regular Class member, a Senior Management Service Class member, or an Elected Officers’ Class member initially enrolled on or after July 1, 2011:

a. The first day of the month the member attains age 65; or

b. The first day of the month following the date the member completes 33 years of creditable service, regardless of age.

(b)1. If a Special Risk Class member initially enrolled before July 1, 2011:

a.1. ~~The first day of the month the member completes 6 or more years of creditable service in the Special Risk Class and attains age 55 and completes~~

the years of creditable service in the Special Risk Class equal to or greater than the years of service required for vesting;

b.2. The first day of the month following the date the member completes 25 years of creditable service in the Special Risk Class, regardless of age; or

c.3. The first day of the month following the date the member completes 25 years of creditable service and attains age 52, which service may include a maximum of 4 years of military service credit ~~if as long as~~ such credit is not claimed under any other system and the remaining years are in the Special Risk Class.

2. If a Special Risk Class member initially enrolled on or after July 1, 2011:

a. The first day of the month the member attains age 60 and completes the years of creditable service in the Special Risk Class equal to or greater than the years of service required for vesting;

b. The first day of the month following the date the member completes 30 years of creditable service in the Special Risk Class, regardless of age; or

c. The first day of the month following the date the member completes 30 years of creditable service and attains age 57, which service may include a maximum of 4 years of military service credit if such credit is not claimed under any other system and the remaining years are in the Special Risk Class.

“Normal retirement age” is attained on the “normal retirement date.”

(38) “Continuous service” means creditable service as a member, beginning with the first day of employment with an employer covered under a state-administered retirement system consolidated herein and continuing for as long as the member remains in an employer-employee relationship with an employer covered under this chapter. An absence of 1 calendar month or more from an employer’s payroll shall be considered a break in continuous service, except for periods of absence during which an employer-employee relationship continues to exist and such period of absence is creditable under this chapter or under one of the existing systems consolidated herein. However, a law enforcement officer as defined in s. 121.0515(3)(2)(a) who was a member of a state-administered retirement system under chapter 122 or chapter 321 and who resigned and was subsequently reemployed in a law enforcement position within 12 calendar months of such resignation by an employer under such state-administered retirement system shall be deemed to have not experienced a break in service. Further, with respect to a state-employed law enforcement officer who meets the criteria specified in s. 121.0515(3)(2)(a), if the absence from the employer’s payroll is the result of a “layoff” as defined in s. 110.107 or a resignation to run for an elected office that meets the criteria specified in s. 121.0515(3)(2)(a), no break in continuous service shall be deemed to have

occurred if the member is reemployed as a state law enforcement officer or is elected to an office which meets the criteria specified in s. 121.0515(3)(2)(a) within 12 calendar months after the date of the layoff or resignation, notwithstanding the fact that such period of layoff or resignation is not creditable service under this chapter. A withdrawal of contributions will constitute a break in service. Continuous service also includes past service purchased under this chapter, provided such service is continuous within this definition and the rules established by the administrator. The administrator may establish administrative rules and procedures for applying this definition to creditable service authorized under this chapter. Any correctional officer, as defined in s. 943.10, whose participation in the state-administered retirement system is terminated due to the transfer of a county detention facility through a contractual agreement with a private entity pursuant to s. 951.062, shall be deemed an employee with continuous service in the Special Risk Class, provided return to employment with the former employer takes place within 3 years due to contract termination or the officer is employed by a covered employer in a special risk position within 1 year after his or her initial termination of employment by such transfer of its detention facilities to the private entity.

(39)(a) “Termination” occurs, except as provided in paragraph (b), when a member ceases all employment relationships with participating employers ~~an employer~~, however:

1. For retirements effective before July 1, 2010, if a member is employed by any such employer within the next calendar month, termination shall be deemed not to have occurred. A leave of absence constitutes a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The department or state board may require other evidence of termination as it deems necessary.

2. For retirements effective on or after July 1, 2010, if a member is employed by any such employer within the next 6 calendar months, termination shall be deemed not to have occurred. A leave of absence constitutes a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The department or state board may require other evidence of termination as it deems necessary.

(b) “Termination” for a member electing to participate in the Deferred Retirement Option Program occurs when the program participant ceases all employment relationships with participating employers ~~an employer~~ in accordance with s. 121.091(13), however:

1. For termination dates occurring before July 1, 2010, if the member ~~participant~~ is employed by any such employer within the next calendar month, termination will be deemed not to have occurred, except as provided

in s. 121.091(13)(b)4.c. A leave of absence shall constitute a continuation of the employment relationship.

2. For termination dates occurring on or after July 1, 2010, if the ~~member participant~~ becomes employed by any such employer within the next 6 calendar months, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. A leave of absence constitutes a continuation of the employment relationship.

(c) Effective July 1, 2011, “termination” for a member receiving a refund of employee contributions occurs when a member ceases all employment relationships with participating employers for 3 calendar months. A leave of absence constitutes a continuation of the employment relationship.

(45)(a) “Vested” or “vesting” means the guarantee that a member is eligible to receive a future retirement benefit upon completion of the required years of creditable service for the employee’s class of membership, even though the member may have terminated covered employment before reaching normal or early retirement date. Being vested does not entitle a member to a disability benefit. Provisions governing entitlement to disability benefits are set forth under s. 121.091(4).

(a)(b) Effective July 1, 2001, through June 30, 2011, a 6-year vesting requirement shall be implemented for the defined benefit program of the Florida Retirement System Pension Plan System. Pursuant thereto:

1. Any member employed in a regularly established position on July 1, 2001, who completes or has completed a total of 6 years of creditable service ~~is shall be~~ considered vested as ~~described in paragraph (a).~~

2. Any member not employed in a regularly established position on July 1, 2001, shall be deemed vested upon completion of 6 years of creditable service ~~if, provided that~~ such member is employed in a covered position for at least 1 work year after July 1, 2001. However, ~~a no~~ member ~~is not shall be~~ required to complete more years of creditable service than would have been required for that member to vest under retirement laws in effect before July 1, 2001.

3. Any member initially enrolled in the Florida Retirement System on July 1, 2001, through June 30, 2011, shall be deemed vested upon completion of 6 years of creditable service.

(b) Any member initially enrolled in the Florida Retirement System on or after July 1, 2011, shall be vested upon completion of 8 years of creditable service.

(55) “Benefit” means any pension payment, lump-sum or periodic, to a member, retiree, or beneficiary, based partially or entirely on employer contributions ~~or employee contributions, if applicable.~~

(59) “Payee” means a retiree or beneficiary of a retiree who has received or is receiving a retirement benefit payment.

Section 7. Paragraphs (b) and (c) of subsection (2) and subsection (3) of section 121.051, Florida Statutes, are amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(b)1. The governing body of any municipality, metropolitan planning organization, or special district in the state may elect to participate in the Florida Retirement System upon proper application to the administrator and may cover all ~~or any~~ of its units as approved by the Secretary of Health and Human Services and the administrator. The department shall adopt rules establishing procedures ~~provisions~~ for the submission of documents necessary for such application. ~~Before~~ Prior to being approved for participation in the Florida Retirement system, the governing body of ~~a any such~~ municipality, metropolitan planning organization, or special district that has a local retirement system must ~~shall~~ submit to the administrator a certified financial statement showing the condition of the local retirement system ~~as of a date~~ within 3 months ~~before~~ prior to the proposed effective date of membership in the Florida Retirement System. The statement must be certified by a recognized accounting firm that is independent of the local retirement system. All required documents necessary for extending Florida Retirement System coverage must be received by the department for consideration at least 15 days ~~before~~ prior to the proposed effective date of coverage. If the municipality, metropolitan planning organization, or special district does not comply with this requirement, the department may require that the effective date of coverage be changed.

2. A municipality ~~Any city~~, metropolitan planning organization, or special district that has an existing retirement system covering the employees in the units that are to be brought under the Florida Retirement System may participate only after holding a referendum in which all employees in the affected units have the right to participate. Only those employees electing coverage under the Florida Retirement System by affirmative vote in ~~the said referendum~~ are ~~shall be~~ eligible for coverage under this chapter, and those not participating or electing not to be covered by the Florida Retirement System shall remain in their present systems and are ~~shall not be~~ eligible for coverage under this chapter. After the referendum is held, all future employees are ~~shall be~~ compulsory members of the Florida Retirement System.

3. At the time of joining the Florida Retirement System, the governing body of a municipality ~~any city~~, metropolitan planning organization, or special district complying with subparagraph 1. may elect to provide, or not provide, benefits based on past service of officers and employees as described in s. 121.081(1). However, if such employer elects to provide past service

benefits, such benefits must be provided for all officers and employees of its covered group.

4. Once this election is made and approved it may not be revoked, except pursuant to subparagraphs 5. and 6., and all present officers and employees electing coverage ~~under this chapter~~ and all future officers and employees are shall be compulsory members of the Florida Retirement System.

5. Subject to ~~the conditions set forth in~~ subparagraph 6., the governing body of ~~a any~~ hospital licensed under chapter 395 which is governed by the board of a special district as defined in s. 189.403(1) or by the board of trustees of a public health trust created under s. 154.07, hereinafter referred to as "hospital district," and which participates in the Florida Retirement System, may elect to cease participation in the system with regard to future employees in accordance with the following procedure:

a. No more than 30 days and at least 7 days before adopting a resolution to partially withdraw from the ~~Florida Retirement~~ system and establish an alternative retirement plan for future employees, a public hearing must be held on the proposed withdrawal and proposed alternative plan.

b. From 7 to 15 days before such hearing, notice of intent to withdraw, specifying the time and place of the hearing, must be provided in writing to employees of the hospital district proposing partial withdrawal and must be published in a newspaper of general circulation in the area affected, as provided by ss. 50.011-50.031. Proof of publication must of such notice shall be submitted to the Department of Management Services.

c. The governing body of ~~a any~~ hospital district seeking to partially withdraw from the system must, before such hearing, have an actuarial report prepared and certified by an enrolled actuary, as defined in s. 112.625(3), illustrating the cost to the hospital district of providing, through the retirement plan that the hospital district is to adopt, benefits for new employees comparable to those provided under the ~~Florida Retirement~~ system.

d. Upon meeting all applicable requirements of this subparagraph, and subject to ~~the conditions set forth in~~ subparagraph 6., partial withdrawal from the system and adoption of the alternative retirement plan may be accomplished by resolution duly adopted by the hospital district board. The hospital district board must provide written notice of such withdrawal to the division by mailing a copy of the resolution to the division, postmarked ~~by no later than~~ December 15, 1995. The withdrawal shall take effect January 1, 1996.

6. Following the adoption of a resolution under sub-subparagraph 5.d., all employees of the withdrawing hospital district who were members of participants in the ~~Florida Retirement~~ system before prior to January 1, 1996, shall remain as members of participants in the system for as long as they are employees of the hospital district, and all rights, duties, and

obligations between the hospital district, the system, and the employees shall remain in full force and effect. Any employee who is hired or appointed on or after January 1, 1996, may not participate in the Florida Retirement system, and the withdrawing hospital district has ~~shall have~~ no obligation to the system with respect to such employees.

(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 ~~such annuity~~ 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 defined benefit program, 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 participant in the optional program an amount equal to 10.43 percent of the employee's participant's gross monthly compensation. The employer shall deduct an amount for the administration of the program.

c. Effective July 1, 2011, 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. 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 an 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 ~~defined benefit~~

~~program~~ of the Florida Retirement System or to the investment plan established under part II of this chapter ~~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 investment plan ~~Public Employee Optional Retirement Program~~, any contributions, interest, and earnings creditable to the employee under the ~~State Community College System~~ optional retirement program are retained by the employee in the ~~State Community College System~~ 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 ~~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 System~~ 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 ~~defined benefit~~ Plan liabilities in the most recent actuarial valuation. The calculation must include any service already maintained under the pension ~~defined benefit~~ plan in addition to the years under the ~~State Community College System~~ 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 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 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 ~~defined benefit program~~ and service in the ~~State Community College System~~ optional retirement program.

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

a. The employee ~~is 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 ~~is 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 ~~and the~~, 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 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~~ 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. ~~Members of 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. A ~~member participant~~ who receives a program distribution funded by employer ~~and required employee~~ contributions ~~is~~ shall be deemed to be retired from a state-administered retirement system if the ~~member participant~~ 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 ~~State Community College System~~ 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~~ must be enrolled in the ~~State Community College System~~ 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 participant~~ of the ~~State Community College System~~ optional retirement

program who has service credit in the pension defined-benefit plan of the Florida Retirement System for the period between his or her first eligibility to transfer from the pension defined-benefit 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 defined-benefit program of the Florida Retirement System during this period is nullified for purposes of entitlement to a future benefit under the pension plan defined-benefit program of the Florida Retirement System.

(3) SOCIAL SECURITY COVERAGE.—Social security coverage shall be provided for all officers and employees who become members under the provisions of subsection (1) or subsection (2). Any modification of the present agreement with the Social Security Administration, or referendum required under the Social Security Act, for the purpose of providing social security coverage for any member shall be requested by the state agency in compliance with the applicable provisions of the Social Security Act governing such coverage. However, retroactive social security coverage for service ~~before~~ prior to December 1, 1970, with the employer may shall not be provided for ~~a~~ any member who was not covered under the agreement as of November 30, 1970. The employer-paid employee contributions specified in s. 121.71(3) are subject to taxes imposed under the Federal Insurance Contributions Act, 26 U.S.C. ss. 3101-3128.

Section 8. Section 121.0515, Florida Statutes, is amended to read:

121.0515 Special Risk Class membership.—

(1) ESTABLISHMENT OF CLASS LEGISLATIVE INTENT.—A separate In creating the Special Risk class of membership within the Florida Retirement System, to be known as the “Special Risk Class,” is established it is the intent and purpose of the Legislature to recognize that persons employed in certain categories of law enforcement, firefighting, criminal detention, and emergency medical care positions are required as one of the essential functions of their positions to perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties, may find that they are not able, without risk to the health and safety of themselves, the public, or their coworkers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other membership classes positions and that, if they find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they will suffer an economic deprivation therefrom. To address Therefore, as a means of recognizing the peculiar and special problems of this class of employees, it is the intent and purpose of the Legislature to establish a class of retirement membership is established that awards more retirement credit per year of service than that awarded to other employees; however, nothing contained

herein shall require ineligibility for Special Risk Class membership upon reaching age 55.

(2) MEMBERSHIP.—

(a) Until October 1, 1978, “special risk member” means any officer or employee whose application is approved by the administrator and who receives salary payments for work performed as a peace officer; law enforcement officer; police officer; highway patrol officer; custodial employee at a correctional or detention facility; correctional agency employee whose duties and responsibilities involve direct contact with inmates, but excluding secretarial and clerical employees; firefighter; or an employee in any other job in the field of law enforcement or fire protection if the duties of such person are certified as hazardous by his or her employer.

(b) Effective October 1, 1978, through September 30, 1999, “special risk member” means a member of the Florida Retirement System who is designated as a special risk member by the division in accordance with this section. Such member must be employed as a law enforcement officer, a firefighter, or a correctional officer and must meet certain other special criteria as set forth in this section.

(c) Effective October 1, 1999, “special risk member” means a member of the Florida Retirement System who is designated as a special risk member by the division in accordance with this section. Such member must be employed as a law enforcement officer, a firefighter, a correctional officer, an emergency medical technician, or a paramedic and must meet certain other special criteria as set forth in this section.

(d) Effective January 1, 2001, “special risk member” includes:

1. Any member who is employed as a community-based correctional probation officer and meets the special criteria set forth in paragraph (3)(e).

2. Any professional health care bargaining unit or non-unit member who is employed by the Department of Corrections or the Department of Children and Family Services and meets the special criteria set forth in paragraph (3)(f).

(e) Effective July 1, 2001, “special risk member” includes any member who is employed as a youth custody officer by the Department of Juvenile Justice and meets the special criteria set forth in paragraph (3)(g).

(f) Effective October 1, 2005, through June 30, 2008, the member must be employed by a law enforcement agency or medical examiner’s office in a forensic discipline and meet the special criteria set forth in paragraph (3)(h).

(g) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Division of State Fire Marshal in the forensic laboratory and meet the special criteria set forth in paragraph (3)(i).

(h) Effective July 1, 2008, the member must be employed by a local government law enforcement agency or medical examiner's office and meet the special criteria set forth in paragraph (3)(j).

(i) Effective August 1, 2008, "special risk member" includes any member who meets the special criteria for continued membership set forth in paragraph (3)(k).

(3)(2) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(a) Effective October 1, 1978, the member must be employed as a law enforcement officer and be certified, or required to be certified, in compliance with s. 943.1395; however, sheriffs and elected police chiefs are ~~shall~~ be excluded from meeting the certification requirements of this paragraph. In addition, the member's duties and responsibilities must include the pursuit, apprehension, and arrest of law violators or suspected law violators; or as of July 1, 1982, the member must be an active member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; or the member must be the supervisor or command officer of a member or members who have such responsibilities; ~~provided, however,~~ Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are ~~shall~~ not be included;

(b) Effective October 1, 1978, the member must be employed as a firefighter and be certified, or required to be certified, in compliance with s. 633.35 and be employed solely within the fire department of a local government employer or an agency of state government with firefighting responsibilities. In addition, the member's duties and responsibilities must include on-the-scene fighting of fires; as of October 1, 2001, fire prevention, or firefighter training; as of October 1, 2001, direct supervision of firefighting units, fire prevention, or firefighter training; or as of July 1, 2001, aerial firefighting surveillance performed by fixed-wing aircraft pilots employed by the Division of Forestry of the Department of Agriculture and Consumer Services; or the member must be the supervisor or command officer of a member or members who have such responsibilities; ~~provided, however,~~ Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are ~~shall~~ not be included, and further provided that All periods of creditable service in fire prevention or firefighter training, or as the supervisor or command officer of a member or members who have such responsibilities, and for which the employer paid the special risk contribution rate, are ~~shall~~ be included;

(c) Effective October 1, 1978, the member must be employed as a correctional officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility,

or while on work detail outside the facility, or while being transported; or as of July 1, 1984, the member must be the supervisor or command officer of a member or members who have such responsibilities; ~~provided, however,~~ Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are shall not be included; however, wardens and assistant wardens, as defined by rule, are included shall participate in the Special Risk Class;

(d) Effective October 1, 1999, the member must be employed by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer as an emergency medical technician or a paramedic and be certified in compliance with s. 401.27. In addition, the member's primary duties and responsibilities must include on-the-scene emergency medical care or as of October 1, 2001, direct supervision of emergency medical technicians or paramedics, or the member must be the supervisor or command officer of one or more members who have such responsibility. ~~However,~~ Administrative support personnel, including, but not limited to, those whose primary responsibilities are in accounting, purchasing, legal, and personnel, are shall not be included;

(e) Effective January 1, 2001, the member must be employed as a community-based correctional probation officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within the community; or the member must be the supervisor of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal services, and personnel management, are shall not be included; however, probation and parole circuit and deputy circuit administrators are included shall participate in the Special Risk Class;

(f) Effective January 1, 2001, the member must be employed in one of the following classes and must spend at least 75 percent of his or her time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution:

1. Dietitian (class codes 5203 and 5204);
2. Public health nutrition consultant (class code 5224);
3. Psychological specialist (class codes 5230 and 5231);
4. Psychologist (class code 5234);
5. Senior psychologist (class codes 5237 and 5238);
6. Regional mental health consultant (class code 5240);
7. Psychological Services Director—DCF (class code 5242);

8. Pharmacist (class codes 5245 and 5246);
9. Senior pharmacist (class codes 5248 and 5249);
10. Dentist (class code 5266);
11. Senior dentist (class code 5269);
12. Registered nurse (class codes 5290 and 5291);
13. Senior registered nurse (class codes 5292 and 5293);
14. Registered nurse specialist (class codes 5294 and 5295);
15. Clinical associate (class codes 5298 and 5299);
16. Advanced registered nurse practitioner (class codes 5297 and 5300);
17. Advanced registered nurse practitioner specialist (class codes 5304 and 5305);
18. Registered nurse supervisor (class codes 5306 and 5307);
19. Senior registered nurse supervisor (class codes 5308 and 5309);
20. Registered nursing consultant (class codes 5312 and 5313);
21. Quality management program supervisor (class code 5314);
22. Executive nursing director (class codes 5320 and 5321);
23. Speech and hearing therapist (class code 5406); or
24. Pharmacy manager (class code 5251);

(g) Effective July 1, 2001, the member must be employed as a youth custody officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, apprehension, arrest, and counseling of assigned juveniles within the community;

(h) Effective October 1, 2005, through June 30, 2008, the member must be employed by a law enforcement agency or medical examiner's office in a forensic discipline recognized by the International Association for Identification and must qualify for active membership in the International Association for Identification. The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility. Administrative support personnel, including, but not limited to, those whose primary

responsibilities are clerical or in accounting, purchasing, legal, and personnel, are shall not be included;

(i) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Division of State Fire Marshal in the forensic laboratory in one of the following classes:

1. Forensic technologist (class code 8459);
2. Crime laboratory technician (class code 8461);
3. Crime laboratory analyst (class code 8463);
4. Senior crime laboratory analyst (class code 8464);
5. Crime laboratory analyst supervisor (class code 8466);
6. Forensic chief (class code 9602); or
7. Forensic services quality manager (class code 9603);

(j) Effective July 1, 2008, the member must be employed by a local government law enforcement agency or medical examiner's office and must spend at least 65 percent of his or her time performing duties that involve the collection, examination, preservation, documentation, preparation, or analysis of human tissues or fluids or physical evidence having potential biological, chemical, or radiological hazard or contamination, or use chemicals, processes, or materials that may have carcinogenic or health-damaging properties in the analysis of such evidence, or the member must be the direct supervisor of one or more individuals having such responsibility. If a special risk member changes to another position within the same agency, he or she must submit a complete application as provided in paragraph ~~(4)(3)~~(a); or

(k) The member must have already qualified for and be actively participating in special risk membership under paragraph (a), paragraph (b), or paragraph (c), must have suffered a qualifying injury as defined in this paragraph, must not be receiving disability retirement benefits as provided in s. 121.091(4), and must satisfy the requirements of this paragraph.

1. The ability to qualify for the class of membership defined in paragraph (2)(f) ~~occurs~~ ~~s. 121.021(15)(f) shall occur~~ when two licensed medical physicians, one of whom is a primary treating physician of the member, certify the existence of the physical injury and medical condition that constitute a qualifying injury as defined in this paragraph and that the member has reached maximum medical improvement after August 1, 2008. The certifications from the licensed medical physicians must include, at a minimum, that the injury to the special risk member has resulted in a physical loss, or loss of use, of at least two of the following: left arm, right arm, left leg, or right leg; and:

a. That this physical loss or loss of use is total and permanent, except in the event that the loss of use is due to a physical injury to the member's brain, in which event the loss of use is permanent with at least 75-percent loss of motor function with respect to each arm or leg affected.

b. That this physical loss or loss of use renders the member physically unable to perform the essential job functions of his or her special risk position.

c. That, notwithstanding this physical loss or loss of use, the individual is able to perform the essential job functions required by the member's new position, as provided in subparagraph 3.

d. That use of artificial limbs is either not possible or does not alter the member's ability to perform the essential job functions of the member's position.

e. That the physical loss or loss of use is a direct result of a physical injury and not a result of any mental, psychological, or emotional injury.

2. For the purposes of this paragraph, "qualifying injury" means an injury sustained in the line of duty, as certified by the member's employing agency, by a special risk member that does not result in total and permanent disability as defined in s. 121.091(4)(b). An injury is a qualifying injury if ~~when~~ the injury is a physical injury to the member's physical body resulting in a physical loss, or loss of use, of at least two of the following: left arm, right arm, left leg, or right leg. Notwithstanding any other provision of anything in ~~this section to the contrary~~, an injury that would otherwise qualify as a qualifying injury is ~~shall~~ not be considered a qualifying injury if and when the member ceases employment with the employer for whom he or she was providing special risk services on the date the injury occurred.

3. The new position, as described in sub-subparagraph 1.c., that is required for qualification as a special risk member under this paragraph is not required to be a position with essential job functions that entitle an individual to special risk membership. Whether a new position as described in sub-subparagraph 1.c. exists and is available to the special risk member is a decision to be made solely by the employer in accordance with its hiring practices and applicable law.

4. This paragraph does not grant or create additional rights for any individual to continued employment or to be hired or rehired by his or her employer that are not already provided within the Florida Statutes, the State Constitution, the Americans with Disabilities Act, if applicable, or any other applicable state or federal law.

~~(4)(3)~~ PROCEDURE FOR DESIGNATING.—

(a) Any member of the Florida Retirement System employed by a county, municipality ~~city~~, or special district who feels that his or her position ~~he or she~~ meets the criteria set forth in this section for membership in the Special

Risk Class may request that his or her employer submit an application to the department requesting that the department designate him or her as a Special Risk member. If the employer agrees that the member meets the requirements for Special Risk Class membership, the employer shall submit an application to the department on ~~in~~ behalf of the employee containing a certification that the member meets the criteria for Special Risk Class membership set forth in this section and such other supporting documentation as may be required by administrative rule. The department shall, within 90 days, either designate or refuse to designate the member as a special risk member. If the employer declines to submit the member's application to the department or if the department does not designate the member as a special risk member, the member or the employer may appeal to the State Retirement Commission, as provided in s. 121.23, for designation as a special risk member. A member who receives a final affirmative ruling pursuant to such appeal ~~for Special Risk membership~~ shall have Special Risk Class membership retroactive to the date such member would have had Special Risk Class membership had such membership been approved by the employer and the department, as determined by the department, and the employer contributions shall be paid in full within 1 year after such final ruling.

(b)1. Applying the criteria set forth in this section, the department of ~~Management Services~~ shall specify which current and newly created classes of positions under the uniform classification plan established pursuant to chapter 110 entitle the incumbents of positions in those classes to membership in the Special Risk Class. Only employees employed in the classes so specified shall be special risk members.

2. ~~If~~ When a class is not specified by the department as ~~provided in subparagraph 1.~~, the employing agency may petition the State Retirement Commission for approval in accordance with s. 121.23.

(5)(4) REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

(a) Any member who is a special risk member on October 1, 1978, and who fails to meet the criteria for Special Risk Class membership established by this section shall have his or her special risk designation removed and thereafter shall be a regular member and ~~shall~~ earn only regular membership credit. The department may ~~shall have the authority to~~ review the special risk designation of members to determine whether or not those members continue to meet the criteria for Special Risk Class membership.

(b) Any member who is a special risk member on July 1, 2008, and who became eligible to participate under paragraph (3)(2)(h) but fails to meet the criteria for Special Risk Class membership established by paragraph (3)(2)(i) or paragraph (3)(2)(j) shall have his or her special risk designation removed and thereafter shall be a Regular Class member and earn only Regular Class membership credit. The department may review the special risk designation of members to determine whether or not those members continue to meet the criteria for Special Risk Class membership.

~~(6)~~⁽⁵⁾ CREDIT FOR PAST SERVICE.—A special risk member may purchase retirement credit in the Special Risk Class based upon past service, and may upgrade retirement credit for such past service, to the extent of 2 percent of the member’s average monthly compensation as specified in s. 121.091(1)(a) for such service as follows:

(a) The member may purchase special risk credit for past service with a municipality ~~city~~ or special district which has elected to join the Florida Retirement System, or with a participating agency to which a member’s governmental unit was transferred, merged, or consolidated as provided in s. 121.081(1)(f), if the member was employed with the municipality ~~city~~ or special district at the time it commenced participating in the Florida Retirement System or with the governmental unit at the time of its transfer, merger, or consolidation with the participating agency. The service must satisfy the criteria set forth in subsection ~~(3)~~ ⁽²⁾ for Special Risk Class membership as a law enforcement officer, firefighter, or correctional officer; however, ~~a~~ ~~no~~ certificate or waiver of certificate of compliance with s. 943.1395 or s. 633.35 is not ~~shall~~ be required for such service.

(b) Contributions for upgrading the additional special risk credit must pursuant to this subsection ~~shall~~ be equal to the difference in the employer and, if applicable, employee contributions paid and the special risk percentage rate of gross salary in effect at the time of purchase for the period being claimed, plus interest thereon at the rate of 4 percent a year compounded annually from the date of such service until July 1, 1975, and 6.5 percent a year thereafter until the date of payment. This past service may be purchased by the member or by the employer on behalf of the member.

~~(7)~~⁽⁶⁾ CREDIT FOR PRIOR SERVICE.—A special risk member who has creditable service with an employer under chapter 122 or chapter 321, or was employed as a correctional counselor with the Department of Corrections between December 1, 1970, and September 30, 1979, in a position ~~that~~ which satisfies the criteria provided ~~for~~ in subsection ~~(3)~~ ⁽²⁾ for Special Risk Class membership except the requirement for a certificate or waiver of certificate, shall have those years of service counted towards the attainment of the normal retirement date as a special risk member under this chapter. The percentage value of each such year of creditable service under chapter 122, chapter 321, or as a correctional counselor may ~~shall~~ not change as a result of the application of this subsection. A special risk member who has taken a refund of contributions for such creditable service under chapter 122 or chapter 321 and has reclaimed it as prior service credit under this chapter shall be permitted to have such creditable service counted towards the attainment of the normal retirement date for the Special Risk Class of membership under this chapter.

~~(8)~~⁽⁷⁾ SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE.—

(a) A special risk member who is moved or reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care

administrative support position with the same agency, or who is subsequently employed in such a position within with any law enforcement, firefighting, correctional, or emergency medical care agency under the Florida Retirement System, shall participate in the Special Risk Administrative Support Class and shall earn credit for such service at the same percentage rate as that earned by a regular member. Notwithstanding the ~~provisions of subsection (5)~~ (4), service in such an administrative support position shall, for purposes of s. 121.091, applies apply toward satisfaction of the special risk normal retirement date, as defined in s. 121.021(29)(b) ~~if, provided that~~, while in such position, the member remains certified as a law enforcement officer, firefighter, correctional officer, emergency medical technician, or paramedic; remains subject to reassignment at any time to a position qualifying for special risk membership; and completes an aggregate of the 6 or more years of service as a designated special risk member ~~before~~ prior to retirement which is equal to or greater than the years of service required to be vested.

(b) Upon application by a member, the provisions of this subsection shall apply, with respect to such member, retroactively to October 1, 1978, ~~if provided that~~ the member was removed from the Special Risk Class effective October 1, 1978, due to a change in special risk criteria as a result of the enactment of chapter 78-308, Laws of Florida, or was reassigned or employed for training or career development or to fill a critical agency need.

(c) The department shall adopt ~~such~~ rules as are required to administer this subsection.

(d) Notwithstanding any other provision of this subsection ~~to the contrary~~, this subsection does not apply to any special risk member who qualifies for continued membership pursuant to ~~the provisions of paragraph (3)~~(2)(k).

(9)(8) RESTORATION OF SPECIAL RISK CREDIT FOR SPECIFIED PERIOD OF EMPLOYMENT.—A special risk member who was removed from the Special Risk Class effective October 1978, for the sole reason that he or she did not possess the required certificate or temporary waiver of certificate, and who obtained certification and was approved for Special Risk Class membership on or before June 30, 1982, may ~~shall be permitted to~~ have special risk credit restored for that period upon:

(a) Certification by his or her employer that all requirements for Special Risk Class membership except the requirement for certification or temporary waiver of certification were met; and

(b) Payment of contributions equal to the difference in the contributions that were paid during the period and the contributions required for special risk members during that period, plus 6.5 percent interest thereon, compounded each June 30 from date of service until date of payment.

This credit may be purchased by the member or by the employer on behalf of the member.

~~(10)(9)~~ CREDIT FOR UPGRADED SERVICE.—

(a) Any member of the Special Risk Class who has earned creditable service through September 30, 1999, in another membership class of the Florida Retirement System as an emergency medical technician or paramedic, which service is within the purview of the Special Risk Class, may purchase additional retirement credit to upgrade such service to Special Risk Class service, to the extent of the percentages of the member's average final compensation provided in s. 121.091(1)(a)2. Contributions for upgrading such service to Special Risk Class credit ~~must under this subsection shall~~ be equal to the difference in the contributions paid and the Special Risk Class contribution rate as a percentage of gross salary in effect for the period being claimed, plus interest thereon at the rate of 6.5 percent a year, compounded annually until the date of payment. This service credit may be purchased by the employer on behalf of the member.

(b) Any member of the Special Risk Class who has earned creditable service through September 30, 2001, in another membership class of the Florida Retirement System whose responsibilities included fire prevention or firefighter training, which service is within the purview of the Special Risk Class, may purchase additional retirement credit to upgrade such service to Special Risk Class service, to the extent of the percentages of the member's average final compensation provided in s. 121.091(1)(a)2. Contributions for upgrading such service to Special Risk Class credit ~~must under this subsection shall~~ be equal to the difference in the contributions paid and the Special Risk Class contribution rate as a percentage of gross salary in effect for the period being claimed, plus interest thereon at the rate of 6.5 percent a year, compounded annually until the date of payment. This service credit may be purchased by the employer on behalf of the member.

(c) Any member of the Special Risk Class who has earned creditable service through June 30, 2008, in another membership class of the Florida Retirement System in a position with the Department of Law Enforcement or the Division of State Fire Marshal and became covered by the Special Risk Class as described in paragraph ~~(3)(2)(i)~~, or with a local government law enforcement agency or medical examiner's office and became covered by the Special Risk Class as described in paragraph ~~(3)(2)(j)~~, which service is within the purview of the Special Risk Class, and is employed in such position on or after July 1, 2008, may purchase additional retirement credit to upgrade such service to Special Risk Class service, to the extent of the percentages of the member's average final compensation provided in s. 121.091(1)(a)2. The cost for such credit ~~must shall~~ be an amount representing the actuarial accrued liability for the difference in accrual value during 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 Pension defined benefit Plan liabilities in the most recent actuarial valuation. The division shall ensure that the transfer sum is

prepared using a formula and methodology certified by an enrolled actuary. The cost must be paid immediately upon notification by the division. The local government employer may purchase the upgraded service credit on behalf of the member if the member has been employed by that employer for at least 3 years.

Section 9. Paragraphs (a) and (d) of subsection (4), paragraph (b) of subsection (7), and subsections (8) and (10) of section 121.052, Florida Statutes, are amended, present paragraph (c) of subsection (7) of that section is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, to read:

121.052 Membership class of elected officers.—

(4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

(a) ~~A~~ Any duly elected officer whose term of office was shortened by legislative or judicial apportionment pursuant to the provisions of s. 16, Art. III of the State Constitution may, after the term of office to which he or she was elected is completed, pay into the Florida Retirement System Trust Fund the amount of contributions that would have been made by the officer or the officer's employer on his or her behalf, plus 4 percent interest compounded annually from the date he or she left office until July 1, 1975, and 6.5 percent interest compounded annually thereafter, and may receive service credit for the length of time the officer would have served if such term had not been shortened by apportionment.

(d)1. Any justice or judge, or any retired justice or judge who retired before July 1, 1993, who has attained the age of 70 years and who is prevented under s. 8, Art. V of the State Constitution from completing his or her term of office because of age may elect to purchase credit for all or a portion of the months he or she would have served during the remainder of the term of office; ~~however, but~~ he or she may claim those months only after the date the service would have occurred. The justice or judge must pay into the Florida Retirement System Trust Fund the amount of contributions that would have been made by the employer on his or her behalf for the period of time being claimed, plus 6.5 percent interest thereon compounded each June 30 from the date he or she left office, in order to receive service credit in this class for the period of time being claimed. After the date the service would have occurred, and upon payment of the required contributions, the retirement benefit of a retired justice or judge shall ~~will~~ be adjusted prospectively to include the ~~this~~ additional creditable service; however, such adjustment may be made only once.

2. Any justice or judge who does not seek election to a subsequent term of office because he or she would be prevented under s. 8, Art. V of the State Constitution from completing such term of office upon attaining the age of 70 years may elect to purchase service credit for service as a temporary judge as

assigned by the court if the temporary assignment follows immediately follows the last full term of office served and the purchase is limited to the number of months of service needed to vest retirement benefits. To receive retirement credit for such temporary service beyond termination, the justice or judge must pay into the Florida Retirement System Trust Fund the amount of contributions that would have been made by the justice or judge and the employer on his or her behalf had he or she continued in office for the period of time being claimed, plus 6.5 percent interest thereon compounded each June 30 from the date he or she left office.

(7) CONTRIBUTIONS.—

(b) The employer paying the salary of a member of the Elected Officers' Class shall contribute an amount as specified in this subsection or s. 121.71, as appropriate, which shall constitute the entire employer retirement contribution with respect to such member. The employer shall also withhold one-half of the entire contribution of the member required for social security coverage. Effective July 1, 2011, each member of the Elected Officers' Class shall pay employee contributions as specified in s. 121.71.

(c) If a member of the Elected Officers' Class ceases to fill an office covered by this class for 3 calendar months for any reason other than retirement and has not been employed in any capacity with any participating employer for 3 calendar months, the member may receive a refund of all contributions he or she has made to the pension plan, subject to the restrictions otherwise provided in this chapter. Partial refunds are not permitted. The refund shall not include any interest earnings on the contributions for a member of the pension plan. Employer contributions made on behalf of the member are not refundable. A member may not receive a refund of employee contributions if a pending or an approved qualified domestic relations order is filed against the member's retirement account. By obtaining a refund of contributions, a member waives all rights under the Florida Retirement System and the health insurance subsidy provided under s. 112.363 to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit in accordance with s. 121.081(2).

(8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member of the Elected Officers' Class shall have the same normal retirement date and vesting requirement, as those terms are defined in s. 121.021(29) and (45), for a member of the regular class of the Florida Retirement System. Any public service commissioner who was removed from the Elected State Officers' Class on July 1, 1979, after attaining at least 8 years of creditable service in that class is shall be considered to have reached the normal retirement date upon attaining age 62 as required in s. 121.021(29)(a).

(10) ACCRUED SERVICE VALUE.—A member of the Elected Officers' Class who is a Supreme Court justice, district court of appeal judge, circuit judge, or county court judge shall receive judicial retirement credit of $3\frac{1}{3}$ percent of average final compensation, and all other members shall receive

elected officer accrual value ~~retirement credit~~ of 3 percent of average final compensation, for each year of creditable service in such class.

Section 10. Paragraph (a) of subsection (7) of section 121.053, Florida Statutes, is amended to read:

121.053 Participation in the Elected Officers' Class for retired members.

(7) A member who is elected or appointed to an elective office and who is participating in the Deferred Retirement Option Program is not subject to termination as defined in s. 121.021, or reemployment limitations as provided in s. 121.091(9), until the end of his or her current term of office or, if the officer is consecutively elected or reelected to an elective office eligible for coverage under the Florida Retirement System, until he or she no longer holds an elective office, as follows:

(a) At the end of the 60-month DROP period:

1. The officer's DROP account may not accrue additional monthly benefits, but does continue to earn interest as provided in s. 121.091(13). However, an officer whose DROP participation begins on or after July 1, 2010, may not continue to earn such interest.

2. Retirement contributions, except for unfunded actuarial liability and health insurance subsidy contributions required in ss. 121.71(5) and 121.76, are not required of the employer of the elected officer and additional retirement credit may not be earned under the Florida Retirement System.

Section 11. Paragraphs (b) and (j) of subsection (1), paragraph (b) of subsection (3), paragraph (b) of subsection (4), and paragraphs (c), (d), and (e) of subsection (6) of section 121.055, Florida Statutes, are amended, present paragraph (c) of subsection (3) of that section is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, 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.

(1)

(b)1. Except as provided in subparagraph 2., effective January 1, 1990, participation in the Senior Management Service Class ~~is shall be~~ compulsory for the president of each community college, the manager of each participating municipality ~~city~~ or county, and all appointed district school superintendents. Effective January 1, 1994, additional positions may be designated for inclusion in the Senior Management Service Class ~~if of the Florida Retirement System, provided that:~~

a. Positions to be included in the class ~~are shall be~~ designated by the local agency employer. Notice of intent to designate positions for inclusion in the

class ~~must~~ shall be published once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected, as provided in chapter 50.

b. Up to 10 nonelective full-time positions may be designated for each local agency employer reporting to the department of Management Services; for local agencies with 100 or more regularly established positions, additional nonelective full-time positions may be designated, not to exceed 1 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who is not subject to continuing contract and serves at the pleasure of the local agency employer without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. In lieu of participation in the Senior Management Service Class, members of the Senior Management Service Class, pursuant to the provisions of subparagraph 1., may withdraw from the Florida Retirement System altogether. The decision to withdraw from the Florida Retirement system is shall be irrevocable for as long as the employee holds the such a position. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the Florida Retirement system; however, additional service credit in the Senior Management Service Class may shall not be earned after such withdrawal. Such members are shall not be eligible to participate in the Senior Management Service Optional Annuity Program.

3. Effective January 1, 2006, through June 30, 2006, an employee who has withdrawn from the Florida Retirement System under subparagraph 2. has one opportunity to elect to participate in either the pension plan defined benefit program or the investment plan Public Employee Optional Retirement Program of the Florida Retirement System.

a. If the employee elects to participate in the investment plan Public Employee Optional Retirement Program, membership shall be prospective, and the applicable provisions of s. 121.4501(4) shall govern the election.

b. If the employee elects to participate in the pension plan defined benefit program of the Florida Retirement System, the employee shall, upon payment to the system trust fund of the amount calculated under sub-sub-subparagraph (I), receive service credit for prior service based upon the time during which the employee had withdrawn from the system.

(I) 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 pension ~~Florida Retirement System~~ defined benefit plan liabilities in the most recent actuarial valuation. The calculation must ~~shall~~ include any service already maintained under the pension defined benefit plan in addition to the period of withdrawal. The actuarial accrued liability attributable to any service already maintained under the pension defined benefit plan shall be applied as a credit to the 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 actuary.

(II) The employee must transfer a sum representing the net cost owed for the actuarial accrued liability in sub-sub-subparagraph (I) immediately following the time of such movement, determined assuming that attained service equals the sum of service in the pension plan ~~defined benefit program~~ and the period of withdrawal.

(j) Except as may otherwise be provided, a ~~any~~ member of the Senior Management Service Class may purchase additional retirement credit in such class for creditable service within the purview of the Senior Management Service Class retroactive to February 1, 1987, and may upgrade retirement credit for such service, to the extent of 2 percent of the member's average monthly compensation as specified in paragraph (4)(d) for such service. Contributions for upgrading the additional Senior Management Service credit must ~~pursuant to this paragraph~~ shall be equal to the difference in the employer and, if applicable, employee contributions paid and the Senior Management Service Class contribution rate as a percentage of gross salary in effect for the period being claimed, plus interest thereon at the rate of 6.5 percent a year, compounded annually until the date of payment. This service credit may be purchased by the employer on behalf of the member.

(3)

(b) The employer paying the salary of a member of the Senior Management Service Class shall contribute an amount as specified in this section or s. 121.71, as appropriate, which shall constitute the entire employer retirement contribution with respect to such member. The employer shall also withhold one-half of the entire contribution of the member required for social security coverage. Effective July 1, 2011, each member shall pay employee contributions as specified in s. 121.71.

(c) Upon termination of employment from all participating employers for 3 calendar months for any reason other than retirement pursuant to s. 121.021(39)(c), a member may receive a refund of all contributions he or she has made to the pension plan, subject to the restrictions otherwise provided in this chapter. Partial refunds are not permitted. The refund shall not include any interest earnings on the contributions for a member of the pension plan. Employer contributions made on behalf of the member are not refundable. A member may not receive a refund of employee contributions if a pending or an approved qualified domestic relations order is filed against the member's retirement account. By obtaining a refund of contributions, a

member waives all rights under the Florida Retirement System and the health insurance subsidy provided under s. 112.363 to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit in accordance with s. 121.081(2).

(4)

(b) Service in an eligible position ~~before~~ prior to February 1, 1987, or after January 31, 1987, shall satisfy the requirement of attaining the normal retirement date as defined in s. 121.021(29) for a Senior Management Service Class member, if provided the employee is a member of the Senior Management Service Class after January 31, 1987. A member of this class who fails to complete the 6 years of creditable service required for vesting in an eligible position must ~~shall be required to~~ satisfy the requirements for the normal retirement date for a regular member as provided in s. 121.021(29) and vesting as provided in s. 121.021(45).

(6)

(c) *Participation.*—

1. An eligible employee who is employed on or before February 1, 1987, may elect to participate in the optional annuity program in lieu of ~~participating participation~~ in the Senior Management Service Class. Such election must be made in writing and filed with the department and the personnel officer of the employer on or before May 1, 1987. An eligible employee who is employed on or before February 1, 1987, and who fails to make an election to participate in the optional annuity program by May 1, 1987, shall be deemed to have elected membership in the Senior Management Service Class.

2. Except as provided in subparagraph 6., an employee who becomes eligible to participate in the optional annuity program by reason of initial employment commencing after February 1, 1987, may, within 90 days after the date of commencing employment, elect to participate in the optional annuity program. Such election must be made in writing and filed with the personnel officer of the employer. An eligible employee who does not within 90 days after commencing employment elect to participate in the optional annuity program shall be deemed to have elected membership in the Senior Management Service Class.

3. A person who is appointed to a position in the Senior Management Service Class and who is a member of an existing retirement system or the Special Risk or Special Risk Administrative Support Classes of the Florida Retirement System may elect to remain in such system or class in lieu of ~~participating participation~~ in the Senior Management Service Class or optional annuity program. Such election must be made in writing and filed with the department and the personnel officer of the employer within 90 days after of such appointment. ~~An~~ Any eligible employee who fails to make an election to participate in the existing system, the Special Risk Class of the

Florida Retirement System, the Special Risk Administrative Support Class of the Florida Retirement System, or the optional annuity program shall be deemed to have elected membership in the Senior Management Service Class.

4. Except as provided in subparagraph 5., an employee's election to participate in the optional annuity program is irrevocable if the employee continues to be employed in an eligible position and continues to meet the eligibility requirements set forth in this paragraph.

5. Effective from July 1, 2002, through September 30, 2002, ~~an any~~ active employee in a regularly established position who has elected to participate in the Senior Management Service Optional Annuity Program has one opportunity to choose to move from the Senior Management Service Optional Annuity Program to the Florida Retirement System Pension Plan System ~~defined benefit program~~.

a. The election must be made in writing and must be filed with the department and the personnel officer of the employer before October 1, 2002, or, in the case of an active employee who is on a leave of absence on July 1, 2002, within 90 days after the conclusion of the leave of absence. This election is irrevocable.

b. The employee shall receive service credit under the pension plan ~~defined benefit program of the Florida Retirement System~~ equal to his or her years of service under the Senior Management Service Optional Annuity Program. The cost for such credit is the amount representing the present value of that employee's accumulated benefit obligation for the affected period of service.

c. The employee must transfer the total accumulated employer contributions and earnings on deposit in his or her Senior Management Service Optional Annuity Program account. If the transferred amount is not sufficient to pay the amount due, the employee must pay a sum representing the remainder of the amount due. The employee may not retain any employer contributions or earnings ~~thereon~~ from the Senior Management Service Optional Annuity Program account.

6. A retiree of a state-administered retirement system who is initially reemployed on or after July 1, 2010, may not renew membership in the Senior Management Service Optional Annuity Program.

(d) *Contributions.*—

1.a. Through June 30, 2001, each employer shall contribute on behalf of each ~~member of participant in~~ 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 participant were a Senior Management Service Class member of the Florida Retirement System Pension Plan ~~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.

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

c. Effective July 1, 2011, 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. The department shall deduct an amount approved by the Legislature to provide for the administration of this program. ~~The Payment of the contributions, including contributions made by the employee, to the optional program which is required by this subparagraph 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 member participant under the program.~~

2. Each employer shall contribute on behalf of each ~~member of participant~~ in 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 participants~~, 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 each participant~~, 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 participant~~ in the Senior Management Service retirement program and ~~are~~ shall be in addition to the retirement contributions specified in this paragraph.

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

participant'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 participant under the program.

(e) *Benefits.*—

1. Benefits under the Senior Management Service Optional Annuity Program are payable only to members of participants in the program, or their beneficiaries as designated by the member participant in the contract with the provider company, and must be paid by the designated company in accordance with the terms of the annuity contract applicable to the member participant. A member participant must be terminated from all employment relationships with Florida Retirement System employers for 3 calendar months as provided in s. 121.021(39) to begin receiving the employer-funded and employee-funded benefit. The member must meet the definition of termination in s. 121.021(39) beginning the month after receiving a benefit, including a distribution. Benefits funded by employer and employee contributions are payable under the terms of the contract to the member participant, his or her beneficiary, or his or her estate, in addition to:

a. A lump-sum payment to the beneficiary upon the death of the member participant;

b. A cash-out of a de minimis account upon the request of a former member participant who has been terminated for a minimum of 6 calendar months from the employment that entitled him or her to optional annuity program participation. Such cash-out must be a complete liquidation of the account balance with that company and is subject to the Internal Revenue Code;

c. A mandatory distribution of a de minimis account of a former member participant who has been terminated for a minimum of 6 calendar months from the employment that entitled him or her to optional annuity program participation as authorized by the department; or

d. A lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the member's participant's account directly to the custodian of an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the member participant.

2. Under the Senior Management Service Optional Annuity Program, benefits, including employee contributions, are not payable 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 before termination from all employment relationships with participating employers for 3 calendar months.

~~3.2.~~ The benefits payable to any person under the Senior Management Service Optional Annuity Program, and any contribution accumulated under such program, are not subject to assignment, execution, or attachment or to any legal process whatsoever.

~~4.3.~~ Except as provided in subparagraph ~~5.~~ 4., a ~~member participant~~ who terminates employment and receives a distribution, including a rollover or trustee-to-trustee transfer, funded by employer and employee contributions ~~is shall~~ be deemed to be retired from a state-administered retirement system if the ~~member participant~~ is subsequently employed with an employer that participates in the Florida Retirement System.

~~5.4.~~ A ~~member participant~~ who receives optional annuity program benefits funded by employer and employee contributions as a mandatory distribution of a de minimis account authorized by the department is not considered a retiree.

As used in this paragraph, a “de minimis account” means an account with a provider company containing employer and employee contributions and accumulated earnings of not more than \$5,000 made under this chapter.

Section 12. Subsection (2) of section 121.061, Florida Statutes, is amended to read:

121.061 Funding.—

(2)(a) Should any employer other than a state employer fail to make the retirement and social security contributions, both member and employer contributions, required by this chapter, then, upon request by the administrator, the Department of Revenue or the Department of Financial Services, as the case may be, shall deduct the amount owed by the employer from any funds to be distributed by it to the county, municipality city, metropolitan planning organization, special district, or consolidated form of government. The amounts so deducted shall be transferred to the administrator for further distribution to the trust funds in accordance with this chapter.

(b) Should any employer for whom the municipality city or county tax collector collects taxes, fail to make the retirement and social security contributions required by this chapter, the tax collector, at the request of the administrator and upon receipt of a certificate from the administrator showing the amount owed by the employer, shall deduct the amount so certified from any taxes collected for the employer and remit the amount to the administrator for further distribution to the trust funds in accordance with this chapter.

(c) The governing body of each county, municipality city, metropolitan planning organization, special district, or consolidated form of government participating under this chapter or the administrator, acting individually or jointly, is hereby authorized to file and maintain an action in the courts of the

state to require any employer to remit any retirement or social security member contributions or employer matching payments due the retirement or social security trust funds under the provisions of this chapter.

(d) Should the income of any constitutional fee officer, in any year, be insufficient to make the matching payments required by this chapter, the board of county commissioners shall provide such fee officer sufficient funds to make these required payments when due.

Section 13. Subsections (2) and (5) and paragraph (c) of subsection (6) of section 121.071, Florida Statutes, are amended, present paragraph (d) of subsection (6) of that section is redesignated as paragraph (e), a new paragraph (d) is added to that subsection, and subsection (7) is added to that section, to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

(2)(a) Effective January 1, 1975, or October 1, 1975, as applicable, and through June 30, 2011, each employer shall make accomplish the contribution required by subsection (1) by a procedure in which no employee's gross salary is shall be reduced. Effective July 1, 2011, each employer and employee shall pay retirement contributions as specified in s. 121.71.

(b) Upon termination of employment from all participating employers for 3 calendar months for any reason other than retirement pursuant to s. 121.021(39)(c), a member may receive shall be entitled to a full refund of all the contributions he or she has made to the pension prior or subsequent to participation in the noncontributory plan, subject to the restrictions otherwise provided in this chapter. Partial refunds are not permitted. The refund may not include any interest earnings on the contributions for a member of the pension plan. Employer contributions made on behalf of the member are not refundable. A member may not receive a refund of employee contributions if a pending or an approved qualified domestic relations order is filed against his or her retirement account. By obtaining a refund of contributions, a member waives all rights under the Florida Retirement System and the health insurance subsidy to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit in accordance with s. 121.081(2).

(5) Contributions made in accordance with subsections (1), (2), (3), and (4); and s. 121.71 shall be paid by the employer into the system trust funds in accordance with rules adopted by the administrator pursuant to chapter 120, except as may be otherwise specified herein. Effective July 1, 2002, contributions paid under subsections (1) and (4) and accompanying payroll data are due and payable no later than the 5th working day of the month immediately following the month during which the payroll period ended.

(6)

(c) By obtaining a refund of contributions, a member waives all rights under the Florida Retirement System and the health insurance subsidy as provided in s. 112.363 to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit in accordance with s. 121.081(2).

(d) If a member or former member of the pension plan receives an invalid refund from the Florida Retirement System Trust Fund, such person must repay the full amount of the invalid refund, plus interest at 6.5 percent compounded annually on each June 30 from the date of refund until full payment is made to the trust fund. The invalid refund must be repaid before the member retires or, if applicable, transfers to the investment plan.

(7) Before termination of employment, benefits, including employee contributions, are not payable under the pension 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 before termination from all employment relationships with participating employers.

Section 14. Paragraphs (b) and (c) of subsection (1) and subsection (2) of section 121.081, Florida Statutes, are amended to read:

121.081 Past service; prior service; contributions.—Conditions under which past service or prior service may be claimed and credited are:

(1)

(b) Past service earned after January 1, 1975, may be claimed by officers or employees of a municipality, metropolitan planning organization, charter school, charter technical career center, or special district who become a covered group under this system. The governing body of a covered group may elect to provide benefits for past service earned after January 1, 1975, in accordance with this chapter,~~—~~and The cost for such past service is established by applying the following formula: The employer shall contribute an amount equal to the employer contribution rate in effect at the time the service was earned and, if applicable, the employee contribution rate, multiplied by the employee's gross salary for each year of past service claimed, plus 6.5 percent ~~6.5 percent~~ interest thereon, compounded annually, for figured on each year of past service, with interest compounded from date of annual salary earned until date of payment.

~~(c) If an employer joins the Florida Retirement System and does~~ Should the employer not elect to provide past service for the member at the time of joining, then the member may claim and pay for the service as provided in same, ~~based on~~ paragraphs (a) and (b).

(2) Prior service, as defined in s. 121.021~~(19)~~, may be claimed as creditable service under the Florida Retirement System after a member

has been reemployed for 1 complete year of creditable service ~~within a period of 12 consecutive months~~, except as provided in paragraph (c). Service performed as a member participant of the optional retirement program for the State University System under s. 121.35 or the Senior Management Service Optional Annuity Program under s. 121.055 may be used to satisfy the reemployment requirement of 1 complete year of creditable service. The member shall not be permitted to make any contributions for prior service until after completion of the 1 year of creditable service. If a member does not wish to claim credit for all of his or her prior service, the service the member claims must be the most recent period of service. The required contributions for claiming the various types of prior service are:

(a) For prior service performed before ~~prior to~~ the date the system becomes noncontributory for the member and for which the member had credit under one of the existing retirement systems and received a refund of contributions upon termination of employment, the member shall contribute 4 percent of all salary received during the period being claimed, plus 4 percent ~~4-percent~~ interest compounded annually from date of refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded annually thereafter, until full payment is made to the Florida Retirement System Trust Fund, and shall receive credit in the Regular Class. A member who elected to transfer to the Florida Retirement System from an existing system may receive credit for prior service under the existing system if he or she was eligible under the existing system to claim the prior service at the time of the transfer. Contributions for such prior service shall be determined by the applicable provisions of the system under which the prior service is claimed and shall be paid by the member, with matching contributions paid by the employer at the time the service was performed. Effective July 1, 1978, the account of a person who terminated under s. 238.05(3) may not be charged interest for contributions that remained on deposit in the Annuity Savings Trust Fund established under chapter 238, upon retirement under this chapter or chapter 238.

(b) For prior service performed before ~~prior to~~ the date the system becomes noncontributory for the member and for which the member had credit under the Florida Retirement System and received a refund of contributions upon termination of employment, the member shall contribute at the rate that was required of him or her during the period of service being claimed, on all salary received during such period, plus 4 percent ~~4-percent~~ interest compounded annually from date of refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded annually thereafter, until the full payment is made to the Florida Retirement System Trust Fund, and shall receive credit in the membership class in which the member participated during the period claimed.

(c) For prior service as defined in s. 121.021(19)(b) and (c) during which no contributions were made because the member did not participate in a retirement system, the member shall contribute 14.38 percent of all salary received during such period or 14.38 percent of \$100 per month during such period, whichever is greater, plus 4 percent ~~4-percent~~ interest compounded

annually from the first year of service claimed until July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded annually thereafter, until full payment is made to the Retirement Trust Fund, and shall receive credit in the Regular Class.

(d) In order to claim credit for prior service as defined in s. 121.021(19)(d) for which no retirement contributions were paid during the period of such service, the member shall contribute the total employee and employer contributions which were required to be made to the Highway Patrol Pension Trust Fund, as provided in chapter 321, during the period claimed, plus 4 percent ~~4 percent~~ interest compounded annually from the first year of service until July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded annually thereafter, until full payment is made to the Retirement Trust Fund. However, any governmental entity ~~that~~ which employed such member may elect to pay up to 50 percent of the contributions and interest required to purchase the ~~this~~ prior service credit. The service shall be credited in accordance with ~~the provisions of the Highway Patrol Pension Plan in effect during the period claimed unless the member terminated and withdrew his or her retirement contributions and was thereafter enrolled in the State and County Officers and Employees' Retirement System or the Florida Retirement System, in which case the service shall be credited as Regular Class service.~~

(e) For service performed under the Florida Retirement System after December 1, 1970, which ~~that~~ was never reported to the division or the department due to error, retirement credit may be claimed by a member of the Florida Retirement System. The department shall adopt rules establishing criteria for claiming such credit and detailing the documentation required to substantiate the error.

(f) For prior service performed on or after July 1, 2011, for which the member had credit under the Florida Retirement System and received a refund of contributions 3 calendar months after termination of employment, the member shall contribute at the rate that was required during the period of service being claimed, plus 6.5 percent interest, compounded annually on each June 30 from date of refund until the full payment is made to the Florida Retirement System Trust Fund, and receive credit in the membership class in which the member participated during the period claimed.

(g)(f) The employer may not be required to make contributions for prior service credit for any member, except that the employer shall pay the employer portion of contributions for any legislator who elects to withdraw from the Florida Retirement System and later rejoins the system and pays any employee contributions required in accordance with s. 121.052(3)(d).

Section 15. Paragraphs (a) and (b) of subsection (3), paragraphs (a) and (j) of subsection (4), paragraphs (a) and (c) of subsection (5), paragraph (d) of subsection (9), paragraphs (a) and (c) of subsection (13), and paragraph (d) of subsection (14) of section 121.091, Florida Statutes, are amended 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.

(3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her early retirement date, the member shall receive an immediate monthly benefit that shall begin to accrue on the first day of the month of the retirement date and be payable on the last day of that month and each month thereafter during his or her lifetime. Such benefit shall be calculated as follows:

(a) For a member initially enrolled:

1. Before July 1, 2011, the amount of each monthly payment shall be computed in the same manner as for a normal retirement benefit, in accordance with subsection (1), but shall be based on the member's average monthly compensation and creditable service as of the member's early retirement date. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which the early retirement date precedes the normal retirement date of age 62 for a member of the Regular Class, Senior Management Service Class, or the Elected Officers' Class, and age 55 for a member of the Special Risk Class, or age 52 if a Special Risk member has completed 25 years of creditable service in accordance with s. 121.021(29)(b)1.c. 121.021(29)(b)3.

2. On or after July 1, 2011, the amount of each monthly payment shall be computed in the same manner as for a normal retirement benefit, in accordance with subsection (1), but shall be based on the member's average monthly compensation and creditable service as of the member's early retirement date. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which the early retirement date precedes the normal retirement date of age 65 for a member of the Regular Class, Senior Management Service Class, or the Elected Officers' Class, and age 60 for a member of the Special Risk Class, or age 57 if a special risk member has completed 30 years of creditable service in accordance with s. 121.021(29)(b)2.c.

(b) ~~If the employment of a member is terminated by reason of death within 10 years before normal retirement as described in s. 121.021(29)(a) 1.b. or s. 121.021(29)(a)2.b. subsequent to the completion of 20 years of creditable service, the monthly benefit payable to the member's beneficiary shall be calculated in accordance with subsection (1), but must shall be based~~

on average monthly compensation and creditable service as of the date of death. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which death precedes the normal retirement date specified above or the date on which the member would have attained the normal retirement date ~~30 years of creditable service~~ had he or she survived and continued his or her employment, whichever provides a higher benefit.

(4) DISABILITY RETIREMENT BENEFIT.—

(a) *Disability retirement; entitlement and effective date.*—

1.a. A member who becomes totally and permanently disabled, as defined in paragraph (b), after completing 5 years of creditable service, or a member who becomes totally and permanently disabled in the line of duty regardless of service, ~~is shall be~~ entitled to a monthly disability benefit; except that any member with less than 5 years of creditable service on July 1, 1980, or any person who becomes a member of the Florida Retirement System on or after such date must have completed 10 years of creditable service ~~before~~ prior to becoming totally and permanently disabled in order to receive disability retirement benefits for any disability which occurs other than in the line of duty. However, if a member employed on July 1, 1980, ~~who has with~~ less than 5 years of creditable service as of that date, becomes totally and permanently disabled after completing 5 years of creditable service and is found not to have attained fully insured status for benefits under the federal Social Security Act, such member ~~is shall be~~ entitled to a monthly disability benefit.

b. Effective July 1, 2001, a member of the ~~pension plan defined benefit retirement program~~ who becomes totally and permanently disabled, as defined in paragraph (b), after completing 8 years of creditable service, or a member who becomes totally and permanently disabled in the line of duty regardless of service, ~~is shall be~~ entitled to a monthly disability benefit.

2. If the division has received from the employer the required documentation of the member's termination of employment, the effective retirement date for a member who applies and is approved for disability retirement shall be established by rule of the division.

3. For a member who is receiving Workers' Compensation payments, the effective disability retirement date may not precede the date the member reaches Maximum Medical Improvement (MMI), unless the member terminates employment ~~before~~ prior to reaching MMI.

(j) *Disability retirement of justice or judge by order of Supreme Court.*—

1. If a member is a justice of the Supreme Court, judge of a district court of appeal, circuit judge, or judge of a county court who has served for the number of years equal to, or greater than, the vesting requirement in s. 121.021(45) ~~6 years or more~~ as an elected constitutional judicial officer, including service as a judicial officer, in any court abolished pursuant to Art.

V of the State Constitution, and who is retired for disability by order of the Supreme Court upon recommendation of the Judicial Qualifications Commission pursuant to ~~the provisions of~~ Art. V of the State Constitution, the member's Option 1 monthly benefit as provided in subparagraph (6)(a)1. ~~may~~ shall not be less than two-thirds of his or her monthly compensation as of the member's disability retirement date. Such a member may alternatively elect to receive a disability retirement benefit under any other option as provided in paragraph (6)(a).

2. Should any justice or judge who is a member of the Florida Retirement System be retired for disability by order of the Supreme Court upon recommendation of the Judicial Qualifications Commission pursuant to ~~the provisions of~~ Art. V of the State Constitution, then all contributions to his or her account and all contributions made on his or her behalf by the employer shall be transferred to and deposited in the General Revenue Fund of the state, and there is hereby appropriated annually out of the General Revenue Fund, to be paid into the Florida Retirement System Fund, an amount necessary to pay the benefits of all justices and judges retired from the Florida Retirement System pursuant to Art. V of the State Constitution.

(5) TERMINATION BENEFITS.—A member whose employment is terminated prior to retirement retains membership rights to previously earned member-noncontributory service credit, and to member-contributory service credit, if the member leaves the member contributions on deposit in his or her retirement account. If a terminated member receives a refund of member contributions, such member may reinstate membership rights to the previously earned service credit represented by the refund by completing 1 year of creditable service and repaying the refunded member contributions, plus interest.

(a) A member whose employment is terminated for any reason other than death or retirement ~~before~~ ~~prior to~~ becoming vested is entitled to the return of his or her accumulated contributions as of the date of termination. Effective July 1, 2011, upon termination of employment from all participating employers for 3 calendar months as defined in s. 121.021(39)(c) for any reason other than retirement, a member may receive a refund of all contributions he or she has made to the pension plan, subject to the restrictions otherwise provided in this chapter. The refund may be received as a lump-sum payment, a rollover to a qualified plan, or a combination of these methods. Partial refunds are not permitted. The refund may not include any interest earnings on the contributions for a member of the pension plan. Employer contributions made on behalf of the member are not refundable. A member may not receive a refund of employee contributions if a pending or an approved qualified domestic relations order is filed against his or her retirement account. By obtaining a refund of contributions, a member waives all rights under the Florida Retirement System and the health insurance subsidy to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit in accordance with s. 121.081(2).

(c) In lieu of the deferred monthly benefit provided in paragraph (b), the terminated member may elect to receive a lump-sum amount equal to his or her accumulated contributions as of the date of termination. Effective July 1, 2011, upon termination of employment from all participating employers for 3 calendar months as defined in s. 121.021(39)(c) for any reason other than retirement, a member may receive a refund of all contributions he or she has made to the pension plan, subject to the restrictions otherwise provided in this chapter. Partial refunds are not permitted. The refund may not include any interest earnings on the contributions for a member of the pension plan. Employer contributions made on behalf of the member are not refundable. A member may not receive a refund of employee contributions if a pending or an approved qualified domestic relations order is filed against his or her retirement account. By obtaining a refund of contributions, a member waives all rights under the Florida Retirement System and the health insurance subsidy to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit in accordance with s. 121.081(2).

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(d) ~~The provisions of~~ This subsection applies ~~apply~~ to retirees, as defined in s. 121.4501(2), of the Florida Retirement System Investment Plan Public Employee Optional Retirement Program, subject to the following conditions:

1. A retiree ~~The retirees~~ may not be reemployed with an employer participating in the Florida Retirement System until such person has been retired for 6 calendar months.

2. A retiree employed in violation of this subsection and an employer that employs or appoints such person are jointly and severally liable for reimbursement of any benefits paid to the retirement trust fund from which the benefits were paid, ~~including the Retirement System Trust Fund and the Public Employee Optional Retirement Program Trust Fund,~~ as appropriate. The employer must have a written statement from the retiree that he or she is not retired from a state-administered retirement system.

(13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and subject to this section, the Deferred Retirement Option Program, hereinafter referred to as DROP, is a program under which an eligible member of the Florida Retirement System may elect to participate, deferring receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer. The deferred monthly benefits shall accrue in the Florida Retirement System on behalf of the member participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the member participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Participation in the DROP does not guarantee employment for the specified period of DROP. Participation in DROP by an eligible member beyond the

initial 60-month period as authorized in this subsection shall be on an annual contractual basis for all participants.

(a) *Eligibility of member to participate in DROP.*—All active Florida Retirement System members in a regularly established position, and all active members of the Teachers' Retirement System established in chapter 238 or the State and County Officers' and Employees' Retirement System established in chapter 122, which are consolidated within the Florida Retirement System under s. 121.011, are eligible to elect participation in DROP if:

1. The member is not a renewed member under s. 121.122 or a member of the State Community College System Optional Retirement Program under s. 121.051, the Senior Management Service Optional Annuity Program under s. 121.055, or the optional retirement program for the State University System under s. 121.35.

2. Except as provided in subparagraph 6., election to participate is made within 12 months immediately following the date on which the member first reaches normal retirement date, or, for a member who reaches normal retirement date based on service before he or she reaches age 62, or age 55 for Special Risk Class members, election to participate may be deferred to the 12 months immediately following the date the member attains age 57, or age 52 for Special Risk Class members. A member who delays DROP participation during the 12-month period immediately following his or her maximum DROP deferral date, except as provided in subparagraph 6., loses a month of DROP participation for each month delayed. A member who fails to make an election within the 12-month limitation period forfeits all rights to participate in DROP. The member shall advise his or her employer and the division in writing of the date DROP begins. The beginning date may be subsequent to the 12-month election period but must be within the original 60-month participation period provided in subparagraph (b)1. When establishing eligibility of the member to participate in DROP, the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member who has dual normal retirement dates is eligible to elect to participate in DROP after attaining normal retirement date in either class.

3. The employer of a member electing to participate in DROP, or employers if dually employed, shall acknowledge in writing to the division the date the member's participation in DROP begins and the date the member's employment and DROP participation terminates ~~will terminate~~.

4. Simultaneous employment of a member participant ~~member participant~~ by additional Florida Retirement System employers subsequent to the commencement of a member's ~~member's~~ participation in DROP is permissible if such employers acknowledge in writing a DROP termination date no later than the member's ~~member's~~ participant's ~~participant's~~ existing termination date or the maximum participation period provided in subparagraph (b)1.

5. A member DROP participant may change employers while participating in DROP, subject to the following:

a. A change of employment ~~takes must take~~ place without a break in service so that the member receives salary for each month of continuous DROP participation. If a member receives no salary during a month, DROP participation ceases shall cease unless the employer verifies a continuation of the employment relationship for such member participant pursuant to s. 121.021(39)(b).

b. The member ~~Such participant~~ and new employer shall notify the division of the identity of the new employer on forms required by the division.

c. The new employer acknowledges shall acknowledge, in writing, the member's participant's DROP termination date, which may be extended but not beyond the maximum participation period provided in subparagraph (b) 1., acknowledges shall acknowledge liability for any additional retirement contributions and interest required if the member participant fails to timely terminate employment, and is subject to the adjustment required in subparagraph (c)5.d.

6. Effective July 1, 2001, for instructional personnel as defined in s. 1012.01(2), election to participate in DROP may be made at any time following the date on which the member first reaches normal retirement date. The member shall advise his or her employer and the division in writing of the date on which DROP begins. When establishing eligibility of the member to participate in DROP for the 60-month participation period provided in subparagraph (b)1., the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member who has dual normal retirement dates is eligible to elect to participate in either class.

(c) *Benefits payable under DROP.*—

1. Effective on the date of DROP participation, the member's initial normal monthly benefit, including creditable service, optional form of payment, and average final compensation, and the effective date of retirement are fixed. The beneficiary established under the Florida Retirement System is the beneficiary eligible to receive any DROP benefits payable if the DROP participant dies before completing the period of DROP participation. If a joint annuitant predeceases the member, the member may name a beneficiary to receive accumulated DROP benefits payable. The retirement benefit, the annual cost of living adjustments provided in s. 121.101, and interest accrue monthly in the Florida Retirement System Trust Fund. For members whose DROP participation begins:

a. Before July 1, 2011, the interest accrues at an effective annual rate of 6.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death, except as provided in s. 121.053(7).

b. On or after July 1, 2011, the interest accrues at an effective annual rate of 1.3 percent, compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death, except as provided in s. 121.053(7).

2. Each employee who elects to participate in DROP may elect to receive a lump-sum payment for accrued annual leave earned in accordance with agency policy upon beginning participation in DROP. The accumulated leave payment certified to the division upon commencement of DROP shall be included in the calculation of the member's average final compensation. The employee electing the lump-sum payment is not eligible to receive a second lump-sum payment upon termination, except to the extent the employee has earned additional annual leave which, combined with the original payment, does not exceed the maximum lump-sum payment allowed by the employing agency's policy or rules. An early lump-sum payment shall be based on the hourly wage of the employee at the time he or she begins participation in DROP. If the member elects to wait and receive a lump-sum payment upon termination of DROP and termination of employment with the employer, any accumulated leave payment made at that time may not be included in the member's retirement benefit, which was determined and fixed by law when the employee elected to participate in DROP.

3. The effective date of DROP participation and the effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in DROP, provided such date is properly established, with the written confirmation of the employer, and the approval of the division, on forms required by the division.

4. Normal retirement benefits and any interest shall continue to accrue in DROP until the established termination date of DROP or until the member participant terminates employment or dies before ~~prior to~~ such date, except as provided in s. 121.053(7). Although individual DROP accounts may shall not be established, a separate accounting of each member's participant's accrued benefits under DROP shall be calculated and provided to the member participants.

5. At the conclusion of the member's participation in the ~~participant's~~ DROP, the division shall distribute the member's participant's total accumulated DROP benefits, subject to the following:

a. The division shall receive verification by the member's participant's employer or employers that the member participant has terminated all employment relationships as provided in s. 121.021(39).

b. The terminated DROP participant or, if deceased, the member's participant's named beneficiary, shall elect on forms provided by the division to receive payment of the DROP benefits in accordance with one of the options listed below. If a member participant or beneficiary fails to elect a method of payment within 60 days after termination of DROP, the division shall pay a lump sum as provided in sub-sub-subparagraph (I).

(I) Lump sum.—All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

(II) Direct rollover.—All accrued DROP benefits, plus interest, shall be paid from DROP directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased member participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code.

(III) Partial lump sum.—A portion of the accrued DROP benefits shall be paid to DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits must be transferred directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased member participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code. The proportions must be specified by the DROP participant or surviving beneficiary.

c. The form of payment selected by the DROP participant or surviving beneficiary must comply with the minimum distribution requirements of the Internal Revenue Code.

d. A DROP participant who fails to terminate all employment relationships as provided in s. 121.021(39) shall be deemed as not retired, and the DROP election is null and void. Florida Retirement System membership shall be reestablished retroactively to the date of the commencement of DROP, and each employer with whom the member participant continues employment must pay to the Florida Retirement System Trust Fund the difference between the DROP contributions paid in paragraph (i) and the contributions required for the applicable Florida Retirement System class of membership during the period the member participated in DROP, plus 6.5 percent interest compounded annually.

6. The retirement benefits of any DROP participant who terminates all employment relationships as provided in s. 121.021(39) but is reemployed in violation of the reemployment provisions of subsection (9) ~~are shall be~~ suspended during those months in which the retiree is in violation. Any retiree in violation of this subparagraph and any employer that employs or appoints such person without notifying the division of Retirement to suspend retirement benefits are jointly and severally liable for any benefits paid during the reemployment limitation period. The employer must have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retiree while employed in violation of the reemployment limitations must be repaid to the Florida Retirement System Trust Fund, and his or her

retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the reemployment limitation period apply toward repayment of benefits received in violation of the reemployment limitation.

7. The accrued benefits of any DROP participant, and any contributions accumulated under the program, are not subject to assignment, execution, attachment, or any legal process ~~whatsoever~~, except for qualified domestic relations court orders ~~by a court of competent jurisdiction~~, income deduction orders as provided in s. 61.1301, and federal income tax levies.

8. DROP participants are not eligible for disability retirement benefits as provided in subsection (4).

(14) PAYMENT OF BENEFITS.—This subsection applies to the payment of benefits to a payee (retiree or beneficiary) under the Florida Retirement System:

(d) A payee whose retirement benefits are reduced by the application of maximum benefit limits under s. 415(b) of the Internal Revenue Code, as specified in s. 121.30(5), shall have the portion of his or her calculated benefit in the Florida Retirement System Pension System ~~defined benefit~~ Plan which exceeds such federal limitation paid through the Florida Retirement System Preservation of Benefits Plan, as provided in s. 121.1001.

Section 16. Subsection (1) and paragraph (a) of subsection (2) of section 121.1001, Florida Statutes, are amended to read:

121.1001 Florida Retirement System Preservation of Benefits Plan.—Effective July 1, 1999, the Florida Retirement System Preservation of Benefits Plan is established as a qualified governmental excess benefit arrangement pursuant to s. 415(m) of the Internal Revenue Code. The Preservation of Benefits Plan is created as a separate portion of the Florida Retirement System, for the purpose of providing benefits to a payee (retiree or beneficiary) of the Florida Retirement System whose benefits would otherwise be limited by s. 415(b) of the Internal Revenue Code.

(1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF BENEFITS PLAN.—A payee of the Florida Retirement System shall participate in the Preservation of Benefits Plan if ~~whenever~~ his or her earned benefit under the Florida Retirement System Pension System ~~defined benefit~~ Plan exceeds the benefit maximum established under s. 415(b) of the Internal Revenue Code. Participation in the Preservation of Benefits Plan shall continue for as long as the payee's earned benefit under the pension ~~Florida Retirement System defined benefit~~ plan is reduced by the application of the maximum benefit limit under s. 415(b) of the Internal Revenue Code.

(2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS PLAN.—

(a) On and after July 1, 1999, the division of Retirement shall pay to each eligible payee of the Florida Retirement System who retires before, on, or after that such date, a supplemental retirement benefit equal to the difference between the amount of the payee's monthly retirement benefit which would have been payable under the Florida Retirement System Pension System defined-benefit Plan if not for a reduction due to the application of s. 415(b) of the Internal Revenue Code and the reduced monthly retirement benefit as paid to the payee. The Preservation of Benefits Plan benefit shall be computed and payable under the same terms and conditions and to the same person as would have applied under the pension Florida Retirement System defined-benefit plan were it not for the federal limitation.

Section 17. Subsections (1) and (3) of section 121.101, Florida Statutes, are amended, present subsections (4) through (7) of that section are redesignated as subsections (6) through (9), respectively, and new subsections (4) and (5) are added to that section, to read:

121.101 Cost-of-living adjustment of benefits.—

(1) The purpose of this section is to provide cost-of-living adjustments to the monthly benefits payable to ~~all~~ retired members of state-supported retirement systems.

(3) Commencing July 1, 1987, the benefit of each retiree and annuitant whose effective retirement date is before July 1, 2011, shall be adjusted annually on each July 1 thereafter, as follows:

(a) For those retirees and annuitants who have never received a cost-of-living adjustment under this section, the amount of the monthly benefit payable for the 12-month period commencing on the adjustment date shall be the amount of the member's initial benefit plus an amount equal to a percentage of the member's initial benefit; this percentage is derived by dividing the number of months the member has received an initial benefit by 12, and multiplying the result by 3.

(b) For those retirees and annuitants who have received a cost-of-living adjustment under this subsection ~~section~~, the adjusted monthly benefit shall be the amount of the monthly benefit being received on June 30 immediately preceding the adjustment date plus an amount equal to 3 percent of this benefit.

(4) For members whose effective retirement date is on or after July 1, 2011, the benefit of each retiree and annuitant shall be adjusted annually on July 1 as follows:

(a) For those retirees and annuitants who have never received a cost-of-living adjustment under this subsection, the amount of the monthly benefit payable for the 12-month period commencing on the adjustment date shall be the amount of the member's initial benefit plus an amount equal to a

percentage of the member's initial benefit. This percentage is derived by dividing the number of months the member has received an initial benefit by 12, and multiplying the result by the factor calculated pursuant to paragraph (c).

(b) For those retirees and annuitants who have received a cost-of-living adjustment under this subsection, the adjusted monthly benefit shall be the amount of the monthly benefit being received on June 30 immediately preceding the adjustment date plus an amount determined by multiplying the benefit by the factor calculated pursuant to paragraph (c).

(c) The department shall calculate a cost-of-living factor for each retiree and beneficiary retiring on or after July 1, 2011. This factor shall equal the product of 3 percent multiplied by the quotient of the sum of the member's service credit earned for service before July 1, 2011, divided by the sum of the member's total service credit earned.

(5) Subject to the availability of funding and the Legislature enacting sufficient employer contributions specifically for the purpose of funding the expiration of the cost-of-living adjustment specified in subsection (4), in accordance with s. 14, Art. X of the State Constitution, the cost-of-living adjustment formula provided for in subsection (4) shall expire effective June 30, 2016, and the benefit of each retiree and annuitant shall be adjusted on each July 1 thereafter, as provided in subsection (3).

Section 18. Paragraph (b) of subsection (1) of section 121.1115, Florida Statutes, is amended to read:

121.1115 Purchase of retirement credit for out-of-state or federal service. Effective January 1, 1995, a member may purchase creditable service for periods of public employment in another state and receive creditable service for such periods of employment. Service with the Federal Government, including any active military service, may be claimed. Upon completion of each year of service earned under the Florida Retirement System, a member may purchase up to 1 year of retirement credit for his or her out-of-state service, subject to the following provisions:

(1) LIMITATIONS AND CONDITIONS.—To receive credit for the out-of-state service:

(b) The member must have completed the a minimum of 6 years of creditable service required for vesting under the Florida Retirement System, excluding out-of-state service and in-state service claimed and purchased under s. 121.1122.

Section 19. Paragraph (a) of subsection (2) of section 121.1122, Florida Statutes, is amended to read:

121.1122 Purchase of retirement credit for in-state public service and in-state service in accredited nonpublic schools and colleges, including charter schools and charter technical career centers.—Effective January 1, 1998, a

member of the Florida Retirement System may purchase creditable service for periods of certain public or nonpublic employment performed in this state, as provided in this section.

(2) LIMITATIONS AND CONDITIONS.—

(a) A member is not eligible to receive credit for in-state service under this section until he or she has completed the 6 years of creditable service required for vesting under the Florida Retirement System, excluding service purchased under this section and out-of-state service claimed and purchased under s. 121.1115.

Section 20. Subsection (1) of section 121.121, Florida Statutes, is amended to read:

121.121 Authorized leaves of absence.—

(1) A member may purchase creditable service for up to 2 work years of authorized leaves of absence, including any leaves of absence covered under the Family Medical Leave Act, if:

(a) The member has completed the a minimum of 6 years of creditable service required for vesting, excluding periods for which a leave of absence was authorized;

(b) The leave of absence is authorized in writing by the employer of the member and approved by the administrator;

(c) The member returns to active employment performing service with a Florida Retirement System employer in a regularly established position immediately upon termination of the leave of absence and remains on the employer's payroll for 1 calendar month, except that a member who retires on disability while on a medical leave of absence may shall not be required to return to employment. A member whose work year is less than 12 months and whose leave of absence terminates between school years is eligible to receive credit for the leave of absence if as long as he or she returns to the employment of ~~his or her employer~~ at the beginning of the next school year and remains on the employer's payroll for 1 calendar month; and

(d) The member makes the required contributions for service credit during the leave of absence, which shall be 8 percent until January 1, 1975, and 9 percent thereafter of his or her rate of monthly compensation in effect immediately ~~before~~ prior to the commencement of such leave for each month of such period, plus 4 percent interest until July 1, 1975, and 6.5 percent interest thereafter on such contributions, compounded annually each June 30 from the due date of the contribution to date of payment.

1. Effective July 1, 1980, any leave of absence purchased pursuant to this section ~~is shall~~ be at the contribution rates specified in s. 121.071 or s. 121.71 in effect at the time the leave is granted for the class of membership from which the leave of absence was granted; however, any member who

purchased leave-of-absence credit ~~before~~ ~~prior to~~ July 1, 1980, for a leave of absence from a position in a class other than the regular membership class, may pay the appropriate additional contributions plus compound interest thereon and receive creditable service for such leave of absence in the membership class from which the member was granted the leave of absence.

2. Effective July 1, 2011, any leave of absence purchased by the member pursuant to this section shall be at the employer and employee contribution rates specified in s. 121.71 in effect during the leave for the class of membership from which the leave of absence was granted.

Section 21. Section 121.125, Florida Statutes, is amended to read:

121.125 Credit for workers' compensation payment periods.—A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive workers' compensation payments for an injury or illness occurring during his or her employment while a member of any state retirement system shall, upon return to active employment with a covered employer for 1 calendar month or upon approval for disability retirement in accordance with s. 121.091(4), receive full retirement credit for the period prior to such return to active employment or disability retirement for which the workers' compensation payments were received. However, ~~a~~ ~~no~~ member may not receive retirement credit for any such period occurring after the earlier of the date of maximum medical improvement as defined in s. 440.02 or the date termination has occurred as defined in s. 121.021(39). The employer of record at the time of the worker's compensation injury or illness shall make the required employer and employee retirement contributions based on the member's rate of monthly compensation immediately prior to his or her receiving workers' compensation payments for retirement credit received by the member. The employer of record at the time of the workers' compensation injury or illness shall be assessed by the division a penalty of 1 percent of the contributions on all contributions not paid on the first payroll report after the member becomes eligible to receive credit. This delinquent assessment may not be waived.

Section 22. Section 121.161, Florida Statutes, is reenacted to read:

121.161 References to other laws include amendments.—References in this chapter to state or federal laws or agreements are intended to include such laws as they now exist or may hereafter be amended.

Section 23. Section 121.182, Florida Statutes, is amended to read:

121.182 Retirement annuities authorized for city and county personnel. Municipalities ~~Cities~~ and counties are authorized to purchase annuities for all municipal ~~city~~ and county personnel with 25 or more years of creditable service who have reached age 50 and have applied for retirement under the Florida Retirement System. No such annuity shall provide for more than the total difference in retirement income between the retirement benefit based on average monthly compensation and creditable service as of the member's

early retirement date and the early retirement benefit. Municipalities ~~Cities~~ and counties may also purchase annuities for members of the Florida Retirement System who have out-of-state service in another state or country which is documented as valid by the appropriate city or county. Such annuities may be based on no more than 5 years of out-of-state service and may equal, but not exceed, the benefits that would be payable under the Florida Retirement System if credit for out-of-state service was authorized under that system. Municipalities ~~Cities~~ and counties are authorized to invest funds, purchase annuities, or provide local supplemental retirement programs for purposes of providing annuities for city or county personnel. All retirement annuities shall comply with s. 14, Art. X of the State Constitution.

Section 24. Paragraphs (g) and (i) of subsection (3), subsection (4), and subsection (5) of section 121.35, Florida Statutes, are amended to read:

121.35 Optional retirement program for the State University System.

(3) ELECTION OF OPTIONAL PROGRAM.—

(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 may not ~~shall~~ be earned while the employee participates in the optional program, and nor shall ~~is not~~ 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 pension plan Florida Retirement System~~ the pension plan 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)(e)2. Upon such transfer, all such service credit ~~previously earned under the defined benefit program of the pension plan Florida Retirement System~~ during this period is ~~shall be~~ nullified for purposes of entitlement to a future benefit under the pension plan ~~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 Pension Plan~~ Pension Plan or to the investment plan ~~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 investment plan ~~Public Employee Optional Retirement Program~~, any contributions, interest, and earnings creditable to the employee under the State University System Optional Retirement Program must 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 pension plan ~~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 must be in ~~shall be~~ an amount representing the actuarial accrued liability for the affected period of service. The cost must shall be calculated using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System Pension defined benefit Plan liabilities in the most recent actuarial valuation. The calculation must shall include any service already maintained under the pension ~~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 pension ~~defined benefit~~ plan must shall 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.

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 pension plan ~~defined benefit program~~ and service in the State University System Optional Retirement Program.

(4) CONTRIBUTIONS.—

(a)1. Through June 30, 2001, each employer shall contribute on behalf of each member of 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 employee participant were a regular member of the Florida Retirement System Pension Plan ~~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.

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

3. Effective July 1, 2011, 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. ~~The department shall deduct an amount approved by the Legislature to provide for the administration of this program. The payment of the contributions, including contributions by the employee, 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 members of the participant under the program. However, such contributions paid on behalf of an employee described in paragraph (3)(c) may shall not be forwarded to a company and do shall 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.~~

(b) Each employer shall contribute on behalf of each member of participant in the optional retirement program an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for members of the Florida Retirement System. This contribution shall be paid to the department for transfer to the Florida Retirement System Trust Fund.

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

(d) Contributions required for social security by each employer and each employee participant, 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 participant in the optional retirement program and are shall be in addition to the retirement contributions specified in this subsection.

(e) Each member of participant in the optional retirement program who has executed a contract may contribute by way of salary reduction or deduction a percentage amount of the employee's participant's gross compensation not to exceed the percentage amount contributed by the employer to the optional program, but ~~in no case may such contribution may~~ not exceed federal limitations. Payment of the employee's participant's contributions shall be made by the financial officer of the employer to the division which shall forward the contributions to the designated company or companies contracting for payment of benefits for members of the participant under the program. A member participant may not make, through salary

reduction, any voluntary employee contributions to any other plan under s. 403(b) of the Internal Revenue Code, with the exception of a custodial account under s. 403(b)(7) of the Internal Revenue Code, until he or she has made an employee contribution to his or her optional program equal to the employer contribution. An employee ~~A participant~~ is responsible for monitoring his or her individual tax-deferred income to ensure he or she does not exceed the maximum deferral amounts permitted under the Internal Revenue Code.

(f) The Optional Retirement Trust Fund may accept for deposit into member ~~participant~~ contracts contributions in the form of rollovers or direct trustee-to-trustee transfers by or on behalf of members ~~participants~~ who are reasonably determined by the department to be eligible for rollover or transfer to the optional retirement program pursuant to the Internal Revenue Code, if such contributions are made in accordance with rules adopted by the department. Such contributions shall be accounted for in accordance with any applicable requirements of the Internal Revenue Code and department ~~rules of the department~~.

(g) Effective July 1, 2008, for purposes of paragraph (a) and notwithstanding s. 121.021(22)(b)1., the term "employee's ~~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 no ~~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 a member of the participant ~~in~~ the optional retirement program with respect to such salary payments is made using funds provided by the faculty practice plan.

(5) BENEFITS.—

(a) Benefits are payable under the optional retirement program only to vested members participating ~~participants~~ in the program, or their beneficiaries as designated by the member ~~participant~~ in the contract with a provider company, and such benefits shall be paid only by the designated company in accordance with s. 403(b) of the Internal Revenue Code and the terms of the annuity contract or contracts applicable to the member ~~participant~~. Benefits accrue in individual accounts that are member-directed ~~participant-directed~~, portable, and funded by employer and employee contributions and the earnings thereon. The member ~~participant~~ must be terminated for 3 calendar months ~~from~~ all employment relationships with all Florida Retirement System employers, ~~as provided in s. 121.021(39)~~, to begin receiving the employer-funded benefit. Benefits funded by employer and employee contributions are payable in accordance with the following terms and conditions:

1. Benefits shall be paid only to a participating member participant, to his or her beneficiaries, or to his or her estate, as designated by the member participant.

2. Benefits shall be paid by the provider company or companies in accordance with the law, the provisions of the contract, and any applicable department rule or policy.

3. In the event of a member's participant's death, moneys accumulated by, or on behalf of, the member participant, less withholding taxes remitted to the Internal Revenue Service, if any, shall be distributed to the member's participant's designated beneficiary or beneficiaries, or to the member's participant's estate, as if the member participant retired on the date of death, as provided in paragraph (d) ~~(e)~~. No other death benefits are available to survivors of members participants under the optional retirement program except for such benefits, or coverage for such benefits, as are separately afforded by the employer, at the employer's discretion.

(b) Benefits, including employee contributions, are not payable 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 before termination from all employment relationships with participating employers for 3 calendar months.

~~(c)(b)~~ Upon receipt by the provider company of a properly executed application for distribution of benefits, the total accumulated benefit is shall be payable to the participating member participant, as:

1. A lump-sum distribution to the member participant;
2. A lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the member's participant's account directly to an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the member participant;
3. Periodic distributions;
4. A partial lump-sum payment whereby a portion of the accrued benefit is paid to the member participant and the remaining amount is transferred to an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the member participant; or
5. Such other distribution options as are provided ~~for~~ in the member's participant's optional retirement program contract.

~~(d)(e)~~ Survivor benefits are shall be payable as:

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

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

3. Such other distribution options as are provided ~~for~~ in the member's participant's optional retirement program contract; or

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

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

~~(e)(d)~~ The benefits payable to any person under the optional retirement program, and any contribution accumulated under such program, are shall not be subject to assignment, execution, or attachment or to any legal process whatsoever.

~~(f)(e)~~ A participating member participant who chooses to receive his or her benefits must be terminated for 3 calendar months to be eligible to receive benefits funded by employer and employee contributions. The member upon termination as defined in s. 121.021 must notify the provider company of the date he or she wishes benefits funded by required employer and employee contributions to begin and must be terminated as defined in s. 121.021 after the initial benefit payment or distribution is received. Benefits may be deferred until the member participant chooses to make such application.

~~(g)(f)~~ Benefits funded by the participating member's voluntary participant's personal contributions may be paid out at any time and in any form within the limits provided in the contract between the member participant and the his or her provider company. The member participant shall notify the provider company regarding the date and provisions under which he or she wants to receive the employee-funded portion of the plan.

~~(h)(g)~~ For purposes of this section, "retiree" means a former participating member participant of the optional retirement program who has terminated employment and has taken a distribution as provided in this subsection, except for a mandatory distribution of a de minimis account authorized by the department.

Section 25. Section 121.355, Florida Statutes, is amended 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 member of participant in the Community College Optional Retirement Program or the State University System Optional Retirement Program and present mandatory member of participant in the Florida Retirement System Pension 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 ~~must represent~~ 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 Pension System defined benefit Plan liabilities in the most recent actuarial valuation. The calculation ~~must~~ shall include any service already maintained under the pension 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 pension 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 pension plan 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 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 26. Section 121.4501, Florida Statutes, is amended to read:

121.4501 Florida Retirement System Investment Plan Public Employee Optional Retirement Program.—

(1) The Trustees of the State Board of Administration shall establish ~~a an~~ optional defined contribution retirement program called the “Florida Retirement System Investment Plan” or “investment plan” for members of the Florida Retirement System under which retirement benefits will be

provided for eligible employees who elect to participate in the program. The ~~retirement~~ benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through member-directed ~~employee-directed~~ investments, in accordance with s. 401(a) of the Internal Revenue Code and its related regulations. The employer and employee ~~employers~~ shall make contributions ~~contribute~~, as provided in this section and, ss. 121.571, and 121.71, to the Florida Retirement System Investment Plan Public Employee Optional Retirement Program Trust Fund toward the funding of such ~~optional~~ benefits.

(2) DEFINITIONS.—As used in this part, the term:

(a) “Approved provider” or “provider” means a private sector company that is selected and approved by the state board to offer one or more investment products or services to the investment plan ~~optional retirement program~~. The term includes a bundled provider that offers members ~~participants~~ a range of individually allocated or unallocated investment products and may offer a range of administrative and customer services, which may include accounting and administration of individual member ~~participant~~ benefits and contributions; individual member ~~participant~~ recordkeeping; asset purchase, control, and safekeeping; direct execution of the member’s ~~participant’s~~ instructions as to asset and contribution allocation; calculation of daily net asset values; direct access to member ~~participant~~ account information; periodic reporting to members ~~participants~~, at least quarterly, on account balances and transactions; guidance, advice, and allocation services directly relating to the provider’s own investment options or products, but only if the bundled provider complies with the standard of care of s. 404(a)(1)(A-B) of the Employee Retirement Income Security Act of 1974 (ERISA), and if providing such guidance, advice, or allocation services does not constitute a prohibited transaction under s. 4975(c)(1) of the Internal Revenue Code or s. 406 of ERISA, notwithstanding that such prohibited transaction provisions do not apply to the ~~optional~~ retirement program; a broad array of distribution options; asset allocation; and retirement counseling and education. Private sector companies include investment management companies, insurance companies, depositories, and mutual fund companies.

(b) “Average monthly compensation” means one-twelfth of average final compensation as defined in s. 121.021.

(c) “Covered employment” means employment in a regularly established position as defined in s. 121.021.

(d) “~~Defined benefit program~~” means ~~the defined benefit program of the Florida Retirement System administered under part I of this chapter.~~

(e) “~~Division~~” means ~~the Division of Retirement within the department.~~

(d)(f) “Electronic means” means by telephone, if the required information is received on a recorded line, or through Internet access, if the required information is captured online.

(e)(g) “Eligible employee” means an officer or employee, as defined in s. 121.021, 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 initially enrolled before July 1, 2010; or

2. Participates in, or is eligible to participate in, the Senior Management Service Optional Annuity Program as established under s. 121.055(6), the State Community College System Optional Retirement Program as established under s. 121.051(2)(c), or 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), a retiree of a state-administered retirement system initially reemployed on or after July 1, 2010, or a mandatory participant of the State University System Optional Retirement Program established under s. 121.35.

(f)(h) “Employer” means an employer, as defined in s. 121.021, of an eligible employee.

(g)(i) “Florida Retirement System Investment Plan” or “investment plan” ~~“Optional retirement program” or “optional program”~~ means the defined contribution program ~~Public Employee Optional Retirement Program~~ established under this part.

(h) “Florida Retirement System Pension Plan” or “pension plan” means the defined benefit program of the Florida Retirement System administered under part I of this chapter.

(i)(j) “Member” or “employee” “Participant” means an eligible employee who enrolls in the investment plan optional program as provided in subsection (4), ~~or a terminated Deferred Retirement Option Program member participant~~ as described in subsection (21), or a beneficiary or alternate payee of a member or employee.

(j) “Member contributions” or “employee contributions” means the sum of all amounts deducted from the salary of a member by his or her employer in accordance with s. 121.71(3) and credited to his or her individual account in the investment plan, plus any earnings on such amounts and any contributions specified in paragraph (5)(e).

(k) “Retiree” means a former ~~member participant~~ of the ~~investment plan optional retirement program~~ who has terminated employment and has taken a distribution of ~~vested employee or employer contributions~~ as provided in s. 121.591, except for a mandatory distribution of a de minimis account

authorized by the state board or a minimum required distribution provided by s. 401(a)(9) of the Internal Revenue Code.

(1) “Vested” or “vesting” means the guarantee that a member participant is eligible to receive a retirement benefit upon completion of the required years of service under the investment plan optional retirement program.

(3) ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF BENEFITS.—

~~(a) Participation in the Public Employee Optional Retirement Program is limited to eligible employees. Participation in the optional retirement program is in lieu of participation in the defined benefit program of the Florida Retirement System.~~

~~(a)(b) An eligible employee who is employed in a regularly established position by a state employer on June 1, 2002; by a district school board employer on September 1, 2002; or by a local employer on December 1, 2002, and who is a member of the pension plan defined benefit retirement program of the Florida Retirement System at the time of his or her election to participate in the investment plan Public Employee Optional Retirement Program shall retain all retirement service credit earned under the pension plan defined benefit retirement program of the Florida Retirement System as credited under the system and is shall be entitled to a deferred benefit upon termination, if eligible under the system. However, election to enroll participate in the investment plan Public Employee Optional Retirement Program terminates the active membership of the employee in the pension plan defined benefit program of the Florida Retirement System, and the service of a member participant in the investment plan is Public Employee Optional Retirement Program shall not be creditable under the pension plan defined benefit retirement program of the Florida Retirement System for purposes of benefit accrual but is creditable shall be credited for purposes of vesting.~~

~~(b)(e)1. Notwithstanding paragraph (a), an (b), each eligible employee who elects to participate in the investment plan Public Employee Optional Retirement Program and establishes one or more individual member participant accounts under the optional program may elect to transfer to the investment plan optional program a sum representing the present value of the employee’s accumulated benefit obligation under the pension plan defined benefit retirement program of the Florida Retirement System. Upon such transfer, all service credit previously earned under the pension plan is defined benefit program of the Florida Retirement System shall be nullified for purposes of entitlement to a future benefit under the pension plan defined benefit program of the Florida Retirement System. A member may not transfer participant is precluded from transferring the accumulated benefit obligation balance from the pension plan after the time defined benefit program upon the expiration of the period for enrolling afforded to enroll in the investment plan has expired optional program.~~

~~1.2.~~ 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 pension plan defined benefit program, subject to recomputation under subparagraph ~~2.~~ ~~3.~~ For state employees enrolling under subparagraph ~~(4)(a)1.~~, initial estimates ~~shall~~ 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 ~~shall~~ 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)(e)1.~~, initial estimates ~~shall~~ will be based upon creditable service and average final compensation as of midnight on December 31, 2002. The dates ~~respectively specified are 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 sub-subparagraphs b. and c.

b. A benefit commencement age, based on the member's estimated creditable service as of the estimate date.

c. Except as provided under sub-subparagraph d., for a member initially enrolled:

~~(I) Before July 1, 2011, the benefit commencement age is shall be the younger of the following, but may shall not be younger than the member's age as of the estimate date:~~

~~(A)(I) Age 62; or~~

~~(B)(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 pension plan defined benefit program of the Florida Retirement System.~~

(II) On or after July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:

(A) Age 65; or

(B) The age the member would attain if the member completed 33 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 pension plan.

d.e. For members of the Special Risk Class and for members of the Special Risk Administrative Support Class entitled to retain the special risk normal retirement date:

(I) Initially enrolled before July 1, 2011, the benefit commencement age ~~is shall~~ be the younger of the following, but may shall not be younger than the member's age as of the estimate date:

(A)(I) Age 55; or

(B)(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 pension plan defined benefit program of the Florida Retirement System.

(II) Initially enrolled on or after July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:

(A) Age 60; or

(B) 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 pension plan.

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

2.3. For each member participant who elects to transfer moneys from the pension plan defined benefit program to his or her account in the investment plan optional program, the division shall recompute the amount transferred under subparagraph 1. within 2. ~~not later than~~ 60 days after the actual transfer of funds based upon the member's participant's actual creditable service and actual final average compensation as of the initial date of participation in the investment plan 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 member's 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 the 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 member's 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 member's participant's allocation plan.

3. If contribution adjustments are made as a result of employer errors or corrections, including plan corrections, following recomputation of the amount transferred under subparagraph 1., the member is entitled to the additional contributions or is responsible for returning any excess contributions resulting from the correction. However, any return of such erroneous excess pretax contribution by the plan must be made within the period allowed by the Internal Revenue Service. The present value of the member's accumulated benefit obligation shall not be recalculated.

4. As directed by the member participant, the state board shall transfer or cause to be transferred the appropriate amounts to the designated accounts within. ~~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 investment plan optional program unless the major financial markets for securities available for a transfer are seriously disrupted by an unforeseen event that which also causes the suspension of trading on any national securities exchange in the country where the securities were issued. In that event, the such 30-day period of time may be extended by a resolution of the state board 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 are shall be valued as of the date of receipt in the member's participant's account.

5. If the state 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.

(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 investment plan ~~Public Employee Optional Retirement Program~~ in lieu of retaining his or her membership in the pension plan ~~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 (g) (e). Upon making such election, the employee shall be enrolled as a member participant of the investment plan ~~Public Employee Optional Retirement Program~~, the employee's membership in the Florida Retirement System ~~is~~ shall be governed by the provisions of this part, and the employee's membership in the pension plan ~~terminates~~ defined benefit program ~~of the Florida Retirement System shall terminate~~. The employee's enrollment in the investment plan ~~is~~ 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 investment plan ~~optional program~~.

b. Any such employee who fails to elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ within the prescribed time period is deemed to have elected to retain membership in the pension plan ~~defined benefit program~~ of the Florida Retirement System, and the employee's option to elect to participate in the investment plan ~~optional program~~ is forfeited.

2. With respect to employees who become eligible to participate in the investment plan ~~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 pension plan ~~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 investment plan ~~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 investment plan ~~optional program~~ is irrevocable, except as provided in paragraph (g) (e).

b. If the employee files such election within the prescribed time period, enrollment in the investment plan ~~is 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 investment ~~optional program~~, and, effective the first day of the next month, the employer and employee must ~~shall~~ pay the applicable contributions based on the employee membership class in the ~~optional program~~.

c. ~~An~~ Any such employee who fails to elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ within the prescribed time period is deemed to have elected to retain membership in the pension plan ~~defined benefit program~~ of the Florida Retirement System, and the employee's option to elect to participate in the investment plan ~~optional program~~ is forfeited.

3. With respect to employees who become eligible to participate in the investment plan ~~Public Employee Optional Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), ~~the any~~ such employee may elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ in lieu of retaining his or her ~~membership~~ participation in the State Community College System 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 (g) (e). Upon making such election, the employee shall be enrolled as a ~~member in~~ participant of the investment plan ~~Public Employee Optional Retirement Program~~, the employee's membership in the Florida Retirement System ~~is shall be~~ governed by the provisions of this part, and the employee's participation in the State Community College System Optional Retirement Program or the State University System Optional Retirement Program ~~terminates shall terminate~~. The employee's enrollment in the investment plan ~~is Public Employee Optional Retirement Program~~ shall be effective on the first day of the month for which a full month's employer and employee contribution is made to the investment plan ~~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.

(b)1. With respect to an eligible employee who is employed in a regularly established position on September 1, 2002, by a district school board employer:

a. Any such employee may elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ in lieu of retaining his or her membership in the pension plan ~~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 November 30, or, in the case of an active employee who is on a leave of absence on July 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 (g) (e). Upon making such election, the employee shall be enrolled as a ~~member~~ participant of the investment plan ~~Public Employee Optional Retirement Program~~, the employee's membership in the Florida Retirement System ~~is shall be~~ governed by the provisions of this part, and the employee's membership in the pension plan ~~terminates defined benefit program of the Florida Retirement System shall terminate~~. The employee's enrollment in the investment plan ~~is 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 investment ~~optional program~~.

b. Any such employee who fails to elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ within the prescribed

time period is deemed to have elected to retain membership in the pension plan defined benefit program of the Florida Retirement System, and the employee's option to elect to participate in the investment plan optional program is forfeited.

2. With respect to employees who become eligible to participate in the investment plan ~~Public Employee Optional Retirement Program~~ by reason of employment in a regularly established position with a district school board employer commencing after July 1, 2002:

a. Any such employee shall, by default, be enrolled in the pension plan 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 investment plan ~~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 investment plan optional program is irrevocable, except as provided in paragraph (g) (e).

b. If the employee files such election within the prescribed time period, enrollment in the investment plan ~~is 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 investment plan 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 investment plan optional program.

c. Any such employee who fails to elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ within the prescribed time period is deemed to have elected to retain membership in the pension plan defined benefit program of the Florida Retirement System, and the employee's option to elect to participate in the investment plan optional program is forfeited.

3. For purposes of this paragraph, "district school board employer" means any district school board that participates in the Florida Retirement System for the benefit of certain employees, or a charter school or charter technical career center that participates in the Florida Retirement System as provided in s. 121.051(2)(d).

(c)1. With respect to an eligible employee who is employed in a regularly established position on December 1, 2002, by a local employer:

a. Any such employee may elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ in lieu of retaining his or her membership in the pension plan 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 February 28, 2003, or, in the case of an active employee who is on a leave of absence on

October 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 (g) (e). Upon making such election, the employee shall be enrolled as a participant of the investment plan ~~Public Employee Optional Retirement Program~~, the employee's membership in the Florida Retirement System ~~is shall be~~ governed by the provisions of this part, and the employee's membership in the pension plan ~~terminates~~ ~~defined benefit program of the Florida Retirement System shall terminate~~. The employee's enrollment in the investment plan ~~is~~ ~~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 investment plan ~~optional program~~.

b. Any such employee who fails to elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ within the prescribed time period is deemed to have elected to retain membership in the pension plan ~~defined benefit program of the Florida Retirement System~~, and the employee's option to elect to participate in the investment plan ~~optional program~~ is forfeited.

2. With respect to employees who become eligible to participate in the investment plan ~~Public Employee Optional Retirement Program~~ by reason of employment in a regularly established position with a local employer commencing after October 1, 2002:

a. Any such employee shall, by default, be enrolled in the pension plan ~~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 investment plan ~~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 investment plan ~~optional program~~ is irrevocable, except as provided in paragraph (g) (e).

b. If the employee files such election within the prescribed time period, enrollment in the investment plan ~~is~~ ~~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 investment plan ~~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 investment plan ~~optional program~~.

c. Any such employee who fails to elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ within the prescribed time period is deemed to have elected to retain membership in the pension plan ~~defined benefit program of the Florida Retirement System~~, and the employee's option to elect to participate in the investment plan ~~optional program~~ is forfeited.

3. For purposes of this paragraph, “local employer” means any employer not included in paragraph (a) or paragraph (b).

(d) Contributions available for self-direction by a member participant who has not selected one or more specific investment products shall be allocated as prescribed by the state board. The third-party administrator shall notify the member any such participant at least quarterly that the member participant should take an affirmative action to make an asset allocation among the investment optional program products.

(e) On or after July 1, 2011, a member of the pension plan who obtains a refund of employee contributions retains his or her prior plan choice upon return to employment in a regularly established position with a participating employer.

(f) A member of the investment plan who takes a distribution of any contributions from his or her investment plan account is considered a retiree. A retiree who is initially reemployed on or after July 1, 2010, is not eligible for renewed membership.

(g)(e) After the period during which an eligible employee had the choice to elect the pension plan defined benefit program or the investment plan optional retirement program, or the month following the receipt of the eligible employee’s plan election, if sooner, the employee shall have one opportunity, at the employee’s discretion, to choose to move from the pension plan defined benefit program to the investment plan optional retirement program or from the investment plan optional retirement program to the pension plan defined benefit program. Eligible employees may elect to move between plans Florida Retirement System programs only if they are earning service credit in an employer-employee relationship consistent with s. 121.021(17)(b), excluding leaves of absence without pay. Effective July 1, 2005, such elections are effective on the first day of the month following the receipt of the election by the third-party administrator and are not subject to the requirements regarding an employer-employee relationship or receipt of contributions for the eligible employee in the effective month, except when the election is received by the third-party administrator. This paragraph is contingent upon approval by from the Internal Revenue Service for including the choice described herein within the programs offered by the Florida Retirement System.

1. If the employee chooses to move to the investment plan optional retirement program, the applicable provisions of subsection (3) this section shall govern the transfer.

2. If the employee chooses to move to the pension plan defined benefit program, the employee must transfer from his or her investment plan 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 pension plan defined benefit program and service in the investment plan optional retirement program. Benefit commencement occurs on the first date the employee is eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to value the pension defined benefit plan liabilities in the most recent actuarial valuation. For any employee who, at the time of the second election, already maintains an accrued benefit amount in the pension plan defined benefit program, the then-present value of the accrued benefit is shall be deemed part of the required transfer amount. The division must shall ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary. A refund of any employee contributions or additional member payments made which exceed the employee contributions that would have accrued had the member remained in the pension plan and not transferred to the investment plan is not permitted.

3. Notwithstanding subparagraph 2., an employee who chooses to move to the pension plan defined benefit program and who became eligible to participate in the investment plan optional retirement program by reason of employment in a regularly established position with a state employer after June 1, 2002; a district school board employer after September 1, 2002; or a local employer after December 1, 2002, must transfer from his or her investment plan optional retirement program account, and from other employee moneys as necessary, a sum representing the employee's actuarial accrued liability. A refund of any employee contributions or additional participant payments made which exceed the employee contributions that would have accrued had the member remained in the pension plan and not transferred to the investment plan is not permitted.

4. An employee's ability to transfer from the pension plan defined benefit program to the investment plan optional retirement program pursuant to paragraphs (a)-(d), and the ability of a current employee to have an option to later transfer back into the pension plan defined benefit program under subparagraph 2., shall be deemed a significant system amendment. Pursuant to s. 121.031(4), any resulting unfunded liability arising from actual original transfers from the pension plan defined benefit program to the investment plan optional program must be amortized within 30 plan years as a separate unfunded actuarial base independent of the reserve stabilization mechanism defined in s. 121.031(3)(f). For the first 25 years, a direct amortization payment may not be calculated for this base. During this 25-year period, the separate base shall be used to offset the impact of employees exercising their second program election under this paragraph. ~~It is the intent of the Legislature that~~ The actuarial funded status of the pension plan will defined benefit program not be affected by such second program elections in any significant manner, after due recognition of the separate unfunded actuarial base. Following the initial 25-year period, any remaining balance of the original separate base shall be amortized over the remaining 5 years of the required 30-year amortization period.

5. If the employee chooses to transfer from the investment plan optional retirement program to the pension plan defined benefit program and retains

an excess account balance in the investment plan optional program after satisfying the buy-in requirements under this paragraph, the excess may not be distributed until the member retires from the pension plan defined benefit program. The excess account balance may be rolled over to the pension plan defined benefit program and used to purchase service credit or upgrade creditable service in the pension plan that program.

(5) CONTRIBUTIONS.—

(a) The employee and Each employer shall make the required contributions to contribute on behalf of each participant in the investment plan based on a percentage of the employee's gross monthly compensation Public Employee Optional Retirement Program, as provided in part III of this chapter.

(b) Employee contributions shall be paid as provided in s. 121.71.

(c) The state board, acting as plan fiduciary, must shall ensure that all plan assets are held in a trust, pursuant to s. 401 of the Internal Revenue Code. The fiduciary must shall ensure that such said contributions are allocated as follows:

1. The employer and employee contribution portion earmarked for member participant accounts shall be used to purchase interests in the appropriate investment vehicles for the accounts of each participant as specified by the member participant, or in accordance with paragraph (4)(d).

2. The employer contribution portion earmarked for administrative and educational expenses shall be transferred to the Florida Retirement System Investment Plan Trust Fund board.

3. The employer contribution portion earmarked for disability benefits shall be transferred to the Florida Retirement System Trust Fund department.

(d)(b) The third-party administrator is Employers are responsible for monitoring and notifying employers of the participants regarding maximum contribution levels allowed for members permitted under the Internal Revenue Code. If a member participant contributes to any other tax-deferred plan, the member he or she is responsible for ensuring that total contributions made to the investment plan optional program and to any other such plan do not exceed federally permitted maximums.

(e)(e) The investment plan Public Employee Optional Retirement Program may accept for deposit into member participant accounts contributions in the form of rollovers or direct trustee-to-trustee transfers by or on behalf of members participants, reasonably determined by the state board to be eligible for rollover or transfer to the investment plan optional retirement program pursuant to the Internal Revenue Code, if such contributions are made in accordance with rules as may be adopted by the board. Such

contributions must ~~shall~~ be accounted for in accordance with any applicable Internal Revenue Code requirements and rules of the state board.

(6) VESTING REQUIREMENTS.—

(a) A member is fully and immediately vested in all employee contributions paid to the investment plan as provided in s. 121.71, plus interest and earnings thereon and less investment fees and administrative charges.

(b)(a)1. With respect to employer contributions paid on behalf of the member participant to the investment plan ~~optional retirement program~~, plus interest and earnings thereon and less investment fees and administrative charges, a member participant is vested after completing 1 work year with an employer, including any service while the member participant was a member of the pension plan ~~defined benefit program~~ or an optional retirement program authorized under s. 121.051(2)(c) or s. 121.055(6).

2. If the member participant terminates employment before satisfying the vesting requirements, the nonvested accumulation must be transferred from the member's participant's accounts to the state board for deposit and investment by the state board in its the suspense account created within the Florida Retirement System Investment Plan Public Employee Optional Retirement Program Trust Fund. If the terminated member participant is reemployed as an eligible employee within 5 years, the state board shall transfer to the member's participant's account any amount previously transferred from the member's participant's accounts to the suspense account, plus actual earnings on such amount while in the suspense account.

(c)(b)1. With respect to amounts contributed by an employer and transferred from the pension plan ~~defined benefit program~~ to the investment plan ~~program~~, plus interest and earnings, and less investment fees and administrative charges, a member participant shall be vested in the amount transferred upon meeting the vesting service requirements for the member's participant's membership class as set forth in s. 121.021(45) ~~121.021(29)~~. The third-party administrator shall account for such amounts for each member participant. The division shall notify the member participant and the third-party administrator when the member participant has satisfied the vesting period for Florida Retirement System purposes.

2. If the member participant terminates employment before satisfying the vesting requirements, the nonvested accumulation must be transferred from the member's participant's accounts to the state board for deposit and investment by the state board in the suspense account created within the Florida Retirement System Investment Plan Public Employee Optional Retirement Program Trust Fund. If the terminated member participant is reemployed as an eligible employee within 5 years, the state board shall transfer to the member's accounts ~~participant's account~~ any amount previously transferred from the member's participant's accounts to the suspense account, plus the actual earnings on such amount while in the suspense account.

~~(d)~~(e) Any nonvested accumulations transferred from a member's participant's account to the state board's suspense account shall be forfeited, including accompanying service credit, by the member participant if the member participant is not reemployed as an eligible employee within 5 years after termination.

(e) If the member elects to receive any of his or her vested employee or employer contributions upon termination of employment as provided in s. 121.021(39)(a), except for a mandatory distribution of a de minimis account authorized by the state board or a minimum required distribution provided by s. 401(a)(9) of the Internal Revenue Code, the member shall forfeit all nonvested employer contributions, and accompanying service credit, paid on behalf of the member to the investment plan.

(7) BENEFITS.—Under the investment plan, benefits must Public Employee Optional Retirement Program:

(a) ~~Benefits shall~~ Be provided in accordance with s. 401(a) of the Internal Revenue Code.

(b) ~~Benefits shall~~ Accrue in individual accounts that are member-directed participant-directed, portable, and funded by employer and employee contributions and earnings thereon.

(c) ~~Benefits shall~~ Be payable in accordance with ~~the provisions of~~ s. 121.591.

(8) INVESTMENT PLAN ADMINISTRATION OF PROGRAM.—

(a) The investment plan ~~optional retirement program~~ shall be administered by the state board and affected employers. The state board may require oaths, by affidavit or otherwise, and acknowledgments from persons in connection with the administration of its statutory duties and responsibilities for the investment plan ~~this program~~. An oath, by affidavit or otherwise, may not be required of a member an employee participant at the time of enrollment. Acknowledgment of an employee's election to participate in the program shall be no greater than necessary to confirm the employee's election. The state board shall adopt rules to carry out its statutory duties with respect to administering the investment plan ~~optional retirement program~~, including establishing the roles and responsibilities of affected state, local government, and education-related employers, the state board, the department, and third-party contractors. The department shall adopt rules necessary to administer the investment plan ~~optional program~~ in coordination with the pension plan ~~defined benefit program~~ and the disability benefits available under the investment plan ~~optional program~~.

~~(a)(b)~~1. The state board shall select and contract with a one third-party administrator to provide administrative services if those services cannot be competitively and contractually provided by the division of ~~Retirement~~ within the Department of Management Services. With the approval of the

state board, the third-party administrator may subcontract with ~~other organizations or individuals~~ to provide components of the administrative services. As a cost of administration, the state board may compensate any such contractor for its services, in accordance with the terms of the contract, as is deemed necessary or proper by the board. The third-party administrator may not be an approved provider or be affiliated with an approved provider.

2. These administrative services may include, but are not limited to, enrollment of eligible employees, collection of employer and employee contributions, disbursement of ~~such~~ contributions to approved providers in accordance with the allocation directions of members ~~participants~~; services relating to consolidated billing; individual and collective recordkeeping and accounting; asset purchase, control, and safekeeping; and direct disbursement of funds to and from the third-party administrator, the division, the state board, employers, members ~~participants~~, approved providers, and beneficiaries. This section does not prevent or prohibit a bundled provider from providing any administrative or customer service, including accounting and administration of individual member ~~participant~~ benefits and contributions; individual member ~~participant~~ recordkeeping; asset purchase, control, and safekeeping; direct execution of the member's ~~participant's~~ instructions as to asset and contribution allocation; calculation of daily net asset values; direct access to member ~~participant~~ account information; or periodic reporting to members ~~participants~~, at least quarterly, on account balances and transactions, if these services are authorized by the state board as part of the contract.

~~(b)1.3.~~ The state board shall select and contract with one or more organizations to provide educational services. With approval of the state board, the organizations may subcontract with ~~other organizations or individuals~~ to provide components of the educational services. As a cost of administration, the state board may compensate any such contractor for its services in accordance with the terms of the contract, as is deemed necessary or proper by the board. The education organization may not be an approved provider or be affiliated with an approved provider.

2.4. Educational services shall be designed by the state board and department to assist employers, eligible employees, members ~~participants~~, and beneficiaries in order to maintain compliance with United States Department of Labor regulations under s. 404(c) of the Employee Retirement Income Security Act of 1974 and to assist employees in their choice of pension plan ~~defined benefit~~ or investment plan ~~defined contribution~~ retirement alternatives. Educational services include, but are not limited to, disseminating educational materials; providing retirement planning education; explaining the pension ~~differences between the defined benefit retirement plan and the investment defined contribution retirement plan~~; and offering financial planning guidance on matters such as investment diversification, investment risks, investment costs, and asset allocation. An approved provider may also provide educational information, including retirement planning and investment allocation information concerning its products and services.

(c)1. In evaluating and selecting a third-party administrator, the state board shall establish criteria ~~for evaluating under which it shall consider~~ the relative capabilities and qualifications of each proposed administrator. In developing such criteria, the state board shall consider:

a. The administrator's demonstrated experience in providing administrative services to public or private sector retirement systems.

b. The administrator's demonstrated experience in providing daily valued recordkeeping to defined contribution programs ~~plans~~.

c. The administrator's ability and willingness to coordinate its activities with ~~the Florida Retirement System~~ employers, the state board, and the division, and to supply to such employers, the board, and the division the information and data they require, including, but not limited to, monthly management reports, quarterly member ~~participant~~ reports, and ad hoc reports requested by the department or state board.

d. The cost-effectiveness and levels of the administrative services provided.

e. The administrator's ability to interact with the members ~~participants~~, the employers, the state board, the division, and the providers; the means by which members ~~participants~~ may access account information, direct investment of contributions, make changes to their accounts, transfer moneys between available investment vehicles, and transfer moneys between investment products; and any fees that apply to such activities.

f. Any other factor deemed necessary by the ~~Trustees of the~~ state board of Administration.

2. In evaluating and selecting an educational provider, the state board shall establish criteria under which it shall consider the relative capabilities and qualifications of each proposed educational provider. In developing such criteria, the state board shall consider:

a. Demonstrated experience in providing educational services to public or private sector retirement systems.

b. Ability and willingness to coordinate its activities with the ~~Florida Retirement System~~ employers, the state board, and the division, and to supply to such employers, the board, and the division the information and data they require, including, but not limited to, reports on educational contacts.

c. The cost-effectiveness and levels of the educational services provided.

d. Ability to provide educational services via different media, including, but not limited to, the Internet, personal contact, seminars, brochures, and newsletters.

e. Any other factor deemed necessary by the ~~Trustees of the state board of Administration.~~

3. The establishment of the criteria shall be solely within the discretion of the state board.

(d) The state board shall develop the form and content of any contracts to be offered under the investment plan ~~Public Employee Optional Retirement Program~~. In developing the its contracts, the board shall ~~must~~ consider:

1. The nature and extent of the rights and benefits to be afforded in relation to the required contributions required under the plan ~~program~~.

2. The suitability of the rights and benefits provided ~~to be afforded~~ and the interests of employers in the recruitment and retention of eligible employees.

(e)1. The state board may contract ~~with any consultant~~ for professional services, including legal, consulting, accounting, and actuarial services, deemed necessary to implement and administer the investment plan ~~optional program by the Trustees of the State Board of Administration~~. The state board may enter into a contract with one or more vendors to provide low-cost investment advice to members ~~participants~~, supplemental to education provided by the third-party administrator. All fees under any such contract shall be paid by those members ~~participants~~ who choose to use the services of the vendor.

2. The department may contract ~~with consultants~~ for professional services, including legal, consulting, accounting, and actuarial services, deemed necessary to implement and administer the investment plan ~~optional program~~ in coordination with the pension plan ~~defined benefit program of the Florida Retirement System~~. The department, in coordination with the state board, may enter into a contract with the third-party administrator in order to coordinate services common to the various programs within the Florida Retirement System.

(f) The third-party administrator may ~~shall~~ not receive direct or indirect compensation from an approved provider, except as specifically provided for in the contract with the state board.

(g) The state board shall receive and resolve member ~~participant~~ complaints against the program, the third-party administrator, or any program vendor or provider; shall resolve any conflict between the third-party administrator and an approved provider if such conflict threatens the implementation or administration of the program or the quality of services to employees; and may resolve any other conflicts. The third-party administrator shall retain all member ~~participant~~ records for at least 5 years for use in resolving any member ~~participant~~ conflicts. The state board, the third-party administrator, or a provider is not required to produce documentation or an audio recording to justify action taken with regard to a member

~~participant~~ if the action occurred 5 or more years before the complaint is submitted to the state board. It is presumed that all action taken 5 or more years before the complaint is submitted was taken at the request of the member ~~participant~~ and with the member's ~~participant's~~ full knowledge and consent. To overcome this presumption, the ~~member~~ participant must present documentary evidence or an audio recording demonstrating otherwise.

(9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

(a) The state board shall develop policy and procedures for selecting, evaluating, and monitoring the performance of approved providers and investment products ~~to which employees may direct retirement contributions under the investment plan program.~~ In accordance with such policy and procedures, the state board shall designate and contract for a number of investment products as determined by the board. The board shall also select one or more bundled providers, each of which ~~whom~~ may offer multiple investment options and related services, if ~~when~~ such an approach is determined by the board to provide ~~afford~~ value to the members ~~participants~~ otherwise not available through individual investment products. Each approved bundled provider may offer investment options that provide members ~~participants~~ with the opportunity to invest in each of the following asset classes, to be composed of individual options that represent either a single asset class or a combination thereof: money markets, United States fixed income, United States equities, and foreign stock. The state board shall review and manage all educational materials, contract terms, fee schedules, and other aspects of the approved provider relationships to ensure that no provider is unduly favored or penalized by virtue of its status within the investment ~~plan~~.

(b) The state board shall consider investment options or products it considers appropriate to give members ~~participants~~ the opportunity to accumulate retirement benefits, subject to the following:

1. The investment plan ~~Public Employee Optional Retirement Program~~ must offer a diversified mix of low-cost investment products that span the risk-return spectrum and may include a guaranteed account as well as investment products, such as individually allocated guaranteed and variable annuities, which meet the requirements of this subsection and combine the ability to accumulate investment returns with the option of receiving lifetime income consistent with the long-term retirement security of a pension plan and similar to the lifetime-income benefit provided by the Florida Retirement System.

2. Investment options or products offered by ~~the group of~~ approved providers may include mutual funds, group annuity contracts, individual retirement annuities, interests in trusts, collective trusts, separate accounts, and other such financial instruments, and ~~may include~~ products that give members ~~participants~~ the option of committing their contributions for an

extended time period in an effort to obtain returns higher than those that could be obtained from investment products offering full liquidity.

3. The state board ~~may~~ shall not contract with a ~~any~~ provider that imposes a front-end, back-end, contingent, or deferred sales charge, or any other fee that limits or restricts the ability of members participants to select any investment product available in the investment plan optional program. This prohibition does not apply to fees or charges that are imposed on withdrawals from products that give members participants the option of committing ~~their~~ contributions for an extended time period in an effort to obtain returns higher than those that could be obtained from investment products offering full liquidity, ~~if provided that the product in question,~~ net of all fees and charges, produces material benefits relative to other comparable products in the investment plan program offering full liquidity.

4. Fees or charges for insurance features, such as mortality and expense-risk charges, must be reasonable relative to the benefits provided.

(c) In evaluating and selecting approved providers and products, the state board shall establish criteria for evaluating under which it shall consider the relative capabilities and qualifications of each proposed provider company and product. In developing such criteria, the board shall consider the following to the extent such factors may be applied in connection with investment products, services, or providers:

1. Experience in the United States providing retirement products and related financial services under defined contribution retirement programs plans.

2. Financial strength and stability as which shall be evidenced by the highest ratings assigned by nationally recognized rating services when comparing proposed providers that are so rated.

3. Intrastate and interstate portability of the product offered, including early withdrawal options.

4. Compliance with the Internal Revenue Code.

5. The cost-effectiveness of the product provided and the levels of service supporting the product relative to its benefits and its characteristics, including, ~~without limitation,~~ the level of risk borne by the provider.

6. The provider company's ability and willingness to coordinate its activities with Florida Retirement System employers, the department, and the state board, and to supply the ~~to such~~ employers, the department, and the board with the information and data they require.

7. The methods available to members participants to interact with the provider company; the means by which members participants may access account information, direct investment of contributions, make changes to their accounts, transfer moneys between available investment vehicles, and

transfer moneys between provider companies; and any fees that apply to such activities.

8. The provider company's policies with respect to the transfer of individual account balances, contributions, and earnings thereon, both internally among investment products offered by the provider company and externally between approved providers, as well as any fees, charges, reductions, or penalties that may be applied.

9. An evaluation of specific investment products, taking into account each product's experience in meeting its investment return objectives net of all related fees, expenses, and charges, including, but not limited to, investment management fees, loads, distribution and marketing fees, custody fees, recordkeeping fees, education fees, annuity expenses, and consulting fees.

10. Organizational factors, including, but not limited to, financial solvency, organizational depth, and experience in providing institutional and retail investment services.

(d) By March 1, 2010, the state board shall identify and offer at least one terror-free investment product that allocates its funds among securities not subject to divestiture as provided in s. 215.473 if the investment product is deemed by the state board to be consistent with prudent investor standards. ~~A No~~ person may not bring a civil, criminal, or administrative action against an approved provider; the state board; or any employee, officer, director, or trustee of such provider based upon the divestiture of any security or the offering of a terror-free investment product as specified in this paragraph.

(e) As a condition of offering an ~~any~~ investment option or product in the investment plan ~~optional retirement program~~, the approved provider must agree to make the investment product or service available under the most beneficial terms offered to any other customer, subject to approval by the ~~Trustees of the state board of Administration~~.

(f) The state board shall regularly review the performance of each approved provider and product and related organizational factors to ensure continued compliance with established selection criteria and with board policy and procedures. Providers and products may be terminated subject to contract provisions. The state board shall adopt procedures to transfer account balances from terminated products or providers to other products or providers in the investment plan ~~optional program~~.

(g)1. An approved provider shall comply with all applicable federal and state securities and insurance laws and regulations ~~applicable to the provider~~, as well as with the applicable rules and guidelines of the National Association of Securities Dealers which govern the ethical marketing of investment products. In furtherance of this mandate, an approved provider must agree in its contract with the state board to establish and maintain a compliance education and monitoring system to supervise the activities of all personnel who directly communicate with individual members ~~participants~~

and recommend investment products, which system is consistent with rules of the National Association of Securities Dealers.

2. Approved provider personnel who directly communicate with individual ~~members~~ participants and who recommend investment products shall make an independent and unbiased determination as to whether an investment product is suitable for a particular ~~member~~ participant.

3. The state board shall develop procedures to receive and resolve ~~member participant~~ complaints against a provider or approved provider personnel, and, ~~if when~~ appropriate, refer such complaints to the appropriate agency.

4. Approved providers may not sell or in any way distribute any customer list or ~~member participant~~ identification information generated through their offering of products or services through the investment plan optional retirement program.

(10) EDUCATION COMPONENT.—

(a) The state board, in coordination with the department, shall provide for an education component for system members in a manner consistent with the provisions of this section. The education component must be available to eligible employees at least 90 days prior to the beginning date of the election period for the employees of the respective types of employers.

(b) The education component must provide system members with impartial and balanced information about plan choices. The education component must involve multimedia formats. Program comparisons must, to the greatest extent possible, be based upon the retirement income that different retirement programs may provide to the ~~member participant~~. The state board shall monitor the performance of the contract to ensure that the program is conducted in accordance with the contract, applicable law, and the rules of the state board.

(c) The state board, in coordination with the department, shall provide for an initial and ongoing transfer education component to provide system members with information necessary to make informed plan choice decisions. The transfer education component must include, but is not limited to, information on:

1. The amount of money available to a member to transfer to the defined contribution program.

2. The features of and differences between the pension plan defined benefit program and the defined contribution program, both generally and specifically, as those differences may affect the member.

3. The expected benefit available if the member were to retire under each of the retirement programs, based on appropriate alternative sets of assumptions.

4. The rate of return from investments in the defined contribution program and the period of time over which such rate of return must be achieved to equal or exceed the expected monthly benefit payable to the member under the pension plan ~~defined benefit program~~.

5. The historical rates of return for the investment alternatives available in the defined contribution programs.

6. The benefits and historical rates of return on investments available in a typical deferred compensation plan or a typical plan under s. 403(b) of the Internal Revenue Code for which the employee may be eligible.

7. The program choices available to employees of the State University System and the comparative benefits of each available program, if applicable.

8. Payout options available in each of the retirement programs.

(d) An ongoing education and communication component must provide eligible employees ~~system members~~ with information necessary to make informed decisions about choices within their retirement system ~~program of membership~~ and in preparation for retirement. The component must include, but is not limited to, information concerning:

1. Rights and conditions of membership.

2. Benefit features within the program, options, and effects of certain decisions.

3. Coordination of contributions and benefits with a deferred compensation plan under s. 457 or a plan under s. 403(b) of the Internal Revenue Code.

4. Significant program changes.

5. Contribution rates and program funding status.

6. Planning for retirement.

(e) Descriptive materials must be prepared under the assumption that the employee is an unsophisticated investor, and all materials used in the education component must be approved by the state board prior to dissemination.

(f) The state board and the department shall also establish a communication component to provide program information to participating employers and the employers' personnel and payroll officers and to explain their respective responsibilities in conjunction with the retirement programs.

(g) Funding for education of new employees may reflect administrative costs to the investment plan ~~optional program~~ and the pension plan ~~defined benefit program~~.

(h) Pursuant to subsection paragraph (8)(a), all Florida Retirement System employers have an obligation to regularly communicate the existence of the two Florida Retirement System plans and the plan choice in the natural course of administering their personnel functions, using the educational materials supplied by the state board and the Department of Management Services.

(11) MEMBER PARTICIPANT INFORMATION REQUIREMENTS.— The state board shall ensure that each member participant is provided a quarterly statement that accounts for the contributions made on behalf of the member such participant; the interest and investment earnings thereon; and any fees, penalties, or other deductions that apply thereto. At a minimum, such statements must:

- (a) Indicate the member's participant's investment options.
- (b) State the market value of the account at the close of the current quarter and previous quarter.
- (c) Show account gains and losses ~~for the period~~ and changes in account accumulation unit values for the quarter period.
- (d) Itemize account contributions for the quarter.
- (e) Indicate any account changes due to adjustment of contribution levels, reallocation of contributions, balance transfers, or withdrawals.
- (f) Set forth any fees, charges, penalties, and deductions that apply to the account.
- (g) Indicate the amount of the account in which the member participant is fully vested and the amount of the account in which the member participant is not vested.
- (h) Indicate each investment product's performance relative to an appropriate market benchmark.

The third-party administrator shall provide quarterly and annual summary reports to the state board and any other reports requested by the department or the state board. In any solicitation or offer of coverage under the investment plan ~~an optional retirement program~~, a provider company shall be governed by the contract readability provisions of s. 627.4145, notwithstanding s. 627.4145(6)(c). In addition, all descriptive materials must be prepared under the assumption that the member participant is an unsophisticated investor. Provider companies must maintain an internal system of quality assurance, have proven functional systems that are date-calculation compliant, and be subject to a due-diligence inquiry that proves their capacity and fitness to undertake service responsibilities.

(12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE. The Investment Advisory Council, created pursuant to s. 215.444, shall

assist the state board in implementing and administering the investment plan ~~Public Employee Optional Retirement Program~~. The Investment Advisory council, ~~created pursuant to s. 215.444~~, shall review the state board's initial recommendations regarding the criteria to be used in selecting and evaluating approved providers and investment products. The council may provide comments on the recommendations to the state board within 45 days after receiving the initial recommendations. The state board shall make the final determination as to whether any investment provider or product, any contractor, or any and all contract provisions are ~~shall be~~ approved for the investment plan ~~program~~.

(13) FEDERAL REQUIREMENTS.—

(a) ~~Provisions of This section shall be construed, and the investment plan Public Employee Optional Retirement Program shall be administered, so as to comply with the Internal Revenue Code, 26 U.S.C., and specifically with plan qualification requirements imposed on governmental plans under s. 401(a) of the Internal Revenue Code. The state board may ~~shall have~~ the power and authority to adopt rules reasonably necessary to establish or maintain the qualified status of the investment plan Optional Retirement Program under the Internal Revenue Code and to implement and administer the investment plan Optional Retirement Program in compliance with the Internal Revenue Code and as designated under this part; provided however, that the board shall not have the authority to adopt any rule which makes a substantive change to the investment plan Optional Retirement Program as designed by this part.~~

(b) Any section or provision of this chapter which is susceptible to more than one construction shall ~~must~~ be interpreted in favor of the construction most likely to satisfy requirements imposed by s. 401(a) of the Internal Revenue Code.

(c) Contributions payable under this section for any limitation year may not exceed the maximum amount allowable for qualified defined contribution pension plans under applicable provisions of the Internal Revenue Code. If an employee who is enrolled ~~has elected to participate~~ in the investment plan ~~Public Employee Optional Retirement Program~~ participates in any other plan that is maintained by the participating employer, benefits that accrue under the investment plan ~~Public Employee Optional Retirement Program~~ shall be considered primary for any aggregate limitation applicable under s. 415 of the Internal Revenue Code.

(14) INVESTMENT POLICY STATEMENT.—

(a) Investment products and approved providers selected for the investment plan ~~must~~ Public Employee Optional Retirement Program shall conform with the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ Investment Policy Statement, herein referred to as the "statement," as developed and approved by the trustees of the state board of ~~Administration~~. The statement must include,

among other items, the investment objectives of the investment plan Public Employee Optional Retirement Program, manager selection and monitoring guidelines, and performance measurement criteria. As required from time to time, the executive director of the state board may present recommended changes in the statement to the board for approval.

(b) Prior to presenting the statement, or any recommended changes thereto, to the state board, the executive director of the board shall present such statement or changes to the Investment Advisory Council for review. The council shall present the results of its review to the board prior to the board's final approval of the statement or changes in the statement.

(15) STATEMENT OF FIDUCIARY STANDARDS AND RESPONSIBILITIES.—

(a) Investment of ~~optional~~ defined contribution retirement plan assets shall be made for the sole interest and exclusive purpose of providing benefits to members ~~plan participants~~ and beneficiaries and defraying reasonable expenses of administering the plan. The program's assets shall ~~are to be~~ invested, on behalf of the program members ~~participants~~, with the care, skill, and diligence that a prudent person acting in a like manner would undertake. The performance of the investment duties set forth in this paragraph shall comply with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of conflict with other provisions of law authorizing investments, the investment and fiduciary standards set forth in this subsection shall prevail.

(b) If a member ~~participant~~ or beneficiary of the investment plan Public Employee Optional Retirement Program exercises control over the assets in his or her account, as determined by reference to regulations of the United States Department of Labor under s. 404(c) of the Employee Retirement Income Security Act of 1974 and all applicable laws governing the operation of the program, a ~~no~~ program fiduciary is not ~~shall be~~ liable for any loss to a member's ~~participant's~~ or beneficiary's account which results from the member's ~~such participant's~~ or beneficiary's exercise of control.

(c) Subparagraph (8)(b)~~2.4.~~ and paragraph (15)(b) incorporate the federal law concept of participant control, established by regulations of the United States Department of Labor under s. 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA). The purpose of this paragraph is to assist employers and the state board of Administration in maintaining compliance with s. 404(c), while avoiding unnecessary costs and eroding member ~~participant~~ benefits under the investment plan Public Employee Optional Retirement Program. Pursuant to 29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(1)(viii), the state board of Administration or its designated agents shall deliver to members ~~participants~~ of the investment plan Public Employee Optional Retirement Program a copy of the prospectus most recently provided to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-

1(b)(2)(i)(B)(2)(ii), shall provide such members participants an opportunity to obtain this information, except that:

1. The requirement to deliver a prospectus shall be ~~deemed to be satisfied~~ by delivery of a fund profile or summary profile that contains the information that would be included in a summary prospectus as described by Rule 498 under the Securities Act of 1933, 17 C.F.R. s. 230.498. ~~If~~ When the transaction fees, expense information or other information provided by a mutual fund in the prospectus does not reflect terms negotiated by the state board of ~~Administration~~ or its designated agents, the ~~mentioned~~ requirement is ~~deemed to be satisfied~~ by delivery of a separate document described by Rule 498 substituting accurate information; and

2. Delivery shall be ~~deemed to have been~~ effected if delivery is through electronic means and the following standards are satisfied:

a. Electronically-delivered documents are prepared and provided consistent with style, format, and content requirements applicable to printed documents;

b. Each member participant is provided timely and adequate notice of the documents that are to be delivered, and their significance thereof, and of the member's participant's right to obtain a paper copy of such documents free of charge;

c.(I) Members Participants have adequate access to the electronic documents, at locations such as their worksites or public facilities, and have the ability to convert the documents to paper free of charge by the state board of ~~Administration~~, and the board or its designated agents take appropriate and reasonable measures to ensure that the system for furnishing electronic documents results in actual receipt, ~~or~~

(II) Members Participants have provided consent to receive information in electronic format, which consent may be revoked; and

d. The state board of ~~Administration~~, or its designated agent, actually provides paper copies of the documents free of charge, upon request.

(16) DISABILITY BENEFITS.—For any member participant of the investment plan optional retirement program who becomes totally and permanently disabled, benefits must ~~shall~~ be paid in accordance with the provisions of s. 121.591.

(17) SOCIAL SECURITY COVERAGE.—Social security coverage shall be provided for all officers and employees who become members participants of the investment plan optional program. Any modification of the present agreement with the Social Security Administration, or referendum required under the Social Security Act, for the purpose of providing social security coverage for any member shall be requested by the state agency in compliance with the applicable provisions of the Social Security Act governing such coverage. However, retroactive social security coverage for

service prior to December 1, 1970, with the employer may shall not be provided for any member who was not covered under the agreement as of November 30, 1970.

(18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and employees who are members participants of the investment plan are optional program shall be eligible to receive the retiree health insurance subsidy, subject to the provisions of s. 112.363.

(19) MEMBER PARTICIPANT RECORDS.—Personal identifying information of a member participant in the investment plan Public Employee Optional Retirement Program contained in Florida Retirement System records held by the state board of Administration or the department of Management Services is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(20) DESIGNATION OF BENEFICIARIES.—

(a) Each member participant may, by electronic means or on a form provided for that purpose, signed and filed with the third-party administrator, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary for receiving who shall receive the benefits, if any, which may be payable pursuant to this chapter in the event of the member's participant's death. If no beneficiary is named in this manner, or if no beneficiary designated by the member participant survives the member participant, the beneficiary shall be the spouse of the deceased, if living. If the member's participant's spouse is not alive at the time of the member's his or her death, the beneficiary shall be the living children of the member's participant. If no children survive, the beneficiary shall be the member's participant's father or mother, if living; otherwise, the beneficiary shall be the member's participant's estate. The beneficiary most recently designated by a member participant on a form or letter filed with the third-party administrator shall be the beneficiary entitled to any benefits payable at the time of the member's participant's death. However Notwithstanding any other provision in this subsection to the contrary, for a member participant who dies prior to his or her effective date of retirement, the spouse at the time of death shall be the member's participant's beneficiary unless the member such participant designates a different beneficiary as provided in this subsection subsequent to the member's participant's most recent marriage.

(b) If a member participant designates a primary beneficiary other than the member's participant's spouse, the member's participant's spouse must sign the beneficiary designation form to acknowledge the designation. This requirement does not apply to the designation of one or more contingent beneficiaries to receive benefits remaining upon the death of the primary beneficiary or beneficiaries.

(c) Notwithstanding the member's participant's designation of benefits to be paid through a trust to a beneficiary that is a natural person, and notwithstanding the provisions of the trust, benefits must shall be paid

directly to the beneficiary if the person is no longer a minor or an incapacitated person as defined in s. 744.102.

(21) ~~PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION PROGRAM MEMBERS PARTICIPANTS.~~—Notwithstanding any other provision of law to the contrary, ~~members participants~~ in the Deferred Retirement Option Program offered under part I may, after conclusion of their participation in the program, elect to roll over or authorize a direct trustee-to-trustee transfer to an account under the investment plan ~~Public Employee Optional Retirement Program~~ of their Deferred Retirement Option Program proceeds distributed as provided under s. 121.091(13)(c)5. The transaction must constitute an “eligible rollover distribution” within the meaning of s. 402(c)(4) of the Internal Revenue Code.

(a) The investment plan ~~Public Employee Optional Retirement Program~~ may accept such amounts for deposit into member participant accounts as provided in paragraph (5)(e)(e).

(b) The affected member participant shall direct the investment of his or her investment account; however, unless he or she becomes a renewed member of the Florida Retirement System under s. 121.122 and elects to participate in the investment plan ~~Public Employee Optional Retirement Program~~, no employer contributions may not be made to the member’s participant’s account as provided under paragraph (5)(a).

(c) The state board or the department is not responsible for locating those persons who may be eligible to participate in the investment plan ~~Public Employee Optional Retirement Program~~ under this subsection.

(22) ~~CREDIT FOR MILITARY SERVICE.~~—Creditable service of any member of the investment plan includes ~~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 27. Section 121.4502, Florida Statutes, is amended to read:

121.4502 Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ Trust Fund.—

(1) The Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ Trust Fund is created to hold the assets of the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ in trust for the exclusive benefit of the plan’s members ~~such program’s participants~~ and beneficiaries, and for the payment of reasonable administrative expenses of the plan program, in accordance with s. 401 of the Internal Revenue Code, and shall be administered by the state board of ~~Administration~~ as trustee. Funds shall be credited to the trust fund as provided in this part, to be used for the purposes of this part. The trust fund is exempt from the service charges imposed by s. 215.20.

(2) The Florida Retirement System Investment Plan Public Employee Optional Retirement Program Trust Fund is a retirement trust fund of the Florida Retirement System that accounts for retirement plan assets held by the state in a trustee capacity as a fiduciary for individual participants in the Florida Retirement System Investment Plan Public Employee Optional Retirement Program and, pursuant to s. 19(f), Art. III of the State Constitution, is not subject to termination.

(3) A forfeiture account shall be created within the Florida Retirement System Investment Plan Public Employee Optional Retirement Program Trust Fund to hold the assets derived from the forfeiture of benefits by participants. Pursuant to a private letter ruling from the Internal Revenue Service, the forfeiture account may be used only for paying expenses of the Florida Retirement System Investment Plan Public Employee Optional Retirement Program and reducing future employer contributions to the program. Consistent with Rulings 80-155 and 74-340 of the Internal Revenue Service, unallocated reserves within the forfeiture account must be used as quickly and as prudently as possible considering the state board's fiduciary duty. Expected withdrawals from the account must endeavor to reduce the account to zero each fiscal year.

Section 28. Subsections (1) and (3) of section 121.4503, Florida Statutes, are amended to read:

121.4503 Florida Retirement System Contributions Clearing Trust Fund.—

(1) The Florida Retirement System Contributions Clearing Trust Fund is created as a clearing fund for disbursing employer and employee contributions to the component plans of the Florida Retirement System and shall be administered by the Department of Management Services. Funds shall be credited to the trust fund as provided in this chapter and ~~shall be held in trust for the contributing~~ employees and employers until such time as the assets are transferred by the department to the Florida Retirement System Trust Fund, the Florida Retirement System Investment Plan Public Employee Optional Retirement Program Trust Fund, or other trust funds as authorized by law, to be used for the purposes of this chapter. The trust fund is exempt from the service charges imposed by s. 215.20.

(3) The Department of Management Services may adopt rules governing the receipt and disbursement of amounts received by the Florida Retirement System Contributions Clearing Trust Fund from employers and employees contributing to the component plans of the Florida Retirement System.

Section 29. Section 121.571, Florida Statutes, is amended to read:

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

(1) CONTRIBUTORY NONCONTRIBUTORY PLAN.—Each employer and employee shall ~~submit~~ accomplish the contributions as required by s. 121.71 by a procedure in which no employee's gross salary shall be reduced.

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

(3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under s. 121.71 ~~are this section~~ shall be in addition to employer and member contributions ~~required~~ for social security and the Retiree Health Insurance Subsidy Trust Fund as required under ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as appropriate.

Section 30. Section 121.591, Florida Statutes, is amended to read:

121.591 Payment of benefits payable under the ~~Public Employee Optional Retirement Program of the Florida Retirement System.~~—Benefits may not be paid under the Florida Retirement System Investment Plan ~~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 as in the manner prescribed by the state board or the department. Before termination of employment, 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 prior to termination from all employment relationships with participating employers. The state board or department, as appropriate, may cancel an application for retirement benefits ~~if~~ 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 ~~if~~ 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 ~~member 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 and employee 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 member participant. 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 of Administration shall cancel the instrument and credit the amount of the instrument to the suspense account of the Florida Retirement System Investment Plan 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 attributable to employer contributions 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 investment plan Public Employee Optional Retirement Program:

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

1. ~~To the extent vested,~~ Benefits are payable only to a member, an alternate payee of a qualified domestic relations order, or a beneficiary 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,~~ The member 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 member participant has been terminated for 3 calendar months, except that the state board may authorize by rule for the distribution of up to 10 percent of the member's participant's account after being terminated for 1 calendar month if the member participant has reached the normal retirement date as defined in s. 121.021 of the defined benefit plan.

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 must either repay the full amount

~~invalid distribution to the trust fund within 90 days after receipt of final notification by the state board or the third-party administrator that the distribution was invalid, or, in lieu of repayment, the member must terminate employment from all participating employers. 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 investment plan optional retirement program by the state board, as provided pursuant to s. 121.4501(2)(k), and is subject to 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)(d)2. is becomes null and void, and the state board, the department, or the employing agency is not liable for gains on payroll contributions that have not been deposited to the person's account in the investment plan 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 state board to have taken an invalid distribution may appeal the agency decision through the complaint process as provided under s. 121.4501(9)(g)3. As used in this subparagraph, the term "invalid distribution" means any distribution from an account in the investment plan optional retirement program which is taken in violation of this section, s. 121.091(9), or s. 121.4501.~~

(b) If a member participant elects to receive his or her benefits upon termination of employment as defined in s. 121.021, the member participant must submit a written application or an application by electronic means to the third-party administrator indicating his or her preferred distribution date and selecting an authorized method of distribution as provided in paragraph (c). The member participant may defer receipt of benefits until he or she chooses to make such application, subject to federal requirements.

(c) Upon receipt by the third-party administrator of a properly executed application for distribution of benefits, the total accumulated benefit ~~is shall~~ be payable to the member pro rata across all Florida Retirement System benefit sources participant, as:

1. A lump-sum or partial distribution to the member participant;
2. A lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the member's participant's account directly to the custodian of an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the member participant; or
3. Periodic distributions, as authorized by the state board.

(d) The distribution payment method selected by the member or beneficiary, and the retirement of the member or beneficiary, is final and irrevocable at the time a benefit distribution payment is cashed, deposited, or transferred to another financial institution. Any additional service that remains unclaimed at retirement may not be claimed or purchased, and the type of retirement may not be changed, except that if a member recovers from

a disability, the member may subsequently request benefits under subsection (2).

(e) A member may not receive a distribution of employee contributions if a pending qualified domestic relations order is filed against the member's investment plan account.

(2) **DISABILITY RETIREMENT BENEFITS.**—Benefits provided under this subsection are payable in lieu of the benefits ~~that~~ which would otherwise be payable under the provisions of subsection (1). Such benefits ~~must~~ shall be funded ~~entirely~~ from employer contributions made under s. 121.571, transferred employee contributions and participant funds accumulated pursuant to paragraph (a), and interest and earnings thereon. Pursuant thereto:

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

1. All moneys accumulated in the ~~member's account~~ participant's Public Employee Optional Retirement Program accounts, including vested and nonvested accumulations as described in s. 121.4501(6), ~~must~~ shall be transferred from such individual accounts to the division of Retirement for deposit in the disability account of the Florida Retirement System Trust Fund. Such moneys ~~must~~ shall be ~~separately~~ accounted for separately. Earnings ~~must~~ shall be credited on an annual basis for amounts held in the disability accounts of the Florida Retirement System Trust Fund based on actual earnings of the ~~Florida Retirement System~~ trust fund.

2. If the ~~member~~ participant has retained retirement credit ~~he or she~~ had earned under the pension plan ~~defined benefit program~~ of the Florida Retirement System as provided in s. 121.4501(3)(b), a sum representing the actuarial present value of such credit within the Florida Retirement System Trust Fund shall be reassigned by the division of Retirement from the ~~pension plan defined benefit program~~ to the disability program as implemented under this subsection and shall be deposited in the disability account of the ~~Florida Retirement System~~ trust fund. Such moneys ~~must~~ shall be ~~separately~~ accounted for separately.

(b) *Disability retirement; entitlement.*—

1. A member ~~participant~~ of the investment plan ~~Public Employee Optional Retirement Program~~ who becomes totally and permanently disabled, as defined in paragraph (d) ~~s. 121.091(4)(b)~~, after completing 8 years of creditable service, or a member ~~participant~~ who becomes totally and permanently disabled in the line of duty regardless of ~~his or her~~ length of service, is ~~shall~~ be entitled to a monthly disability benefit as provided herein.

2. In order for service to apply toward the 8 years of creditable service required ~~to vest~~ for regular disability benefits, or toward the creditable

service used in calculating a service-based benefit as provided for under paragraph (g), the service must be creditable service as described below:

a. The ~~member's participant's~~ member participant's period of service under the investment plan ~~shall~~ Public Employee Optional Retirement Program will be considered creditable service, except as provided in subparagraph d.

b. If the ~~member participant~~ member participant has elected to retain credit for his or her service under the pension plan ~~defined benefit program of the Florida Retirement System~~ as provided under s. 121.4501(3)(b), all such service shall ~~will~~ be considered creditable service.

c. If the ~~member elects participant has elected~~ member participant accounts a sum representing the present value of his or her retirement credit under the pension plan ~~defined benefit program~~ as provided under s. 121.4501(3)(e), the period of service under the pension plan ~~defined benefit program~~ represented in the present value amounts transferred shall ~~will~~ be considered creditable service ~~for purposes of vesting for disability benefits~~, except as provided in subparagraph d.

d. ~~If a member~~ Whenever a participant has terminated employment and has taken distribution of his or her funds as provided in subsection (1), all creditable service represented by such distributed funds is forfeited for purposes of this subsection.

(c) *Disability retirement effective date.*—The effective retirement date for a ~~member participant~~ member participant who applies and is approved for disability retirement shall be established as provided under s. 121.091(4)(a)2. and 3.

(d) *Total and permanent disability.*—A ~~member participant~~ member participant shall be considered totally and permanently disabled if, in the opinion of the division, he or she is prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as an officer or employee.

(e) *Proof of disability.*—~~The division,~~ Before approving payment of any disability retirement benefit, the division shall require proof that the ~~member participant~~ member participant is totally and permanently disabled ~~in the same manner as provided for members of the defined benefit program of the Florida Retirement System~~ under s. 121.091(4)(c).

(f) *Disability retirement benefit.*—Upon the disability retirement of a ~~member participant~~ member participant under this subsection, the ~~member participant~~ member participant shall receive a monthly benefit that begins accruing ~~shall begin to accrue~~ on the first day of the month of disability retirement, as approved by the division, and ~~is shall be~~ payable on the last day of that month and each month thereafter during his or her lifetime and continued disability. All disability benefits must ~~payable to such member shall~~ be paid out of the disability account of the Florida Retirement System Trust Fund established under this subsection.

(g) *Computation of disability retirement benefit.*—The amount of each monthly payment must shall be calculated in the same manner as provided for members of the defined benefit program of the Florida Retirement System under s. 121.091(4)(f). For such purpose, Creditable service under both the pension plan defined benefit program and the investment plan Public Employee Optional Retirement Program of the Florida Retirement System shall be applicable as provided under paragraph (b).

(h) *Reapplication.*—A member participant whose initial application for disability retirement is has been denied may reapply for disability benefits in the same manner, and under the same conditions, as provided in for members of the defined benefit program of the Florida Retirement System under s. 121.091(4)(g).

(i) *Membership.*—Upon approval of a member's ~~an~~ application for disability benefits under this subsection, the member applicant shall be transferred to the pension plan defined benefit program of the Florida Retirement System, effective upon his or her disability retirement effective date.

(j) *Option to cancel.*—~~A member~~ Any participant whose application for disability benefits is approved may cancel ~~the his or her application if for~~ disability benefits, provided that the cancellation request is received by the division before a disability retirement warrant has been deposited, cashed, or received by direct deposit. Upon such cancellation:

1. The member's ~~participant's~~ transfer to the pension plan defined benefit program under paragraph (i) shall be nullified;

2. The member ~~participant~~ shall be retroactively reinstated in the investment plan Public Employee Optional Retirement Program without hiatus;

3. All funds transferred to the Florida Retirement System Trust Fund under paragraph (a) must shall be returned to the member ~~participant~~ accounts from which the ~~such~~ funds were drawn; and

4. The member ~~participant~~ may elect to receive the benefit payable under the provisions of subsection (1) in lieu of disability benefits as provided under this subsection.

(k) *Recovery from disability.*—

1. The division may require periodic reexaminations at the expense of the disability program account of the Florida Retirement System Trust Fund. Except as otherwise provided in subparagraph 2., the requirements, procedures, and restrictions relating to the conduct and review of such reexaminations, discontinuation or termination of benefits, reentry into employment, disability retirement after reentry into covered employment, and all other matters relating to recovery from disability shall be the same as provided ~~are set forth~~ under s. 121.091(4)(h).

2. Upon recovery from disability, the any recipient of disability retirement benefits under this subsection shall be a compulsory member of the investment plan ~~Public Employee Optional Retirement Program of the Florida Retirement System~~. The net difference between the recipient's original account balance transferred to the Florida Retirement System Trust Fund, including earnings, ~~under paragraph (a)~~ and total disability benefits paid to such recipient, if any, shall be determined as provided in sub-subparagraph a.

a. An amount equal to the total benefits paid shall be subtracted from that portion of the transferred account balance consisting of vested accumulations as described under s. 121.4501(6), if any, and an amount equal to the remainder of benefit amounts paid, if any, shall ~~then~~ be subtracted from any remaining ~~portion consisting of~~ nonvested accumulations as described under s. 121.4501(6).

b. Amounts subtracted under sub-subparagraph a. must ~~shall~~ be retained within the disability account of the Florida Retirement System Trust Fund. Any remaining account balance shall be transferred to the third-party administrator for disposition as provided under sub-subparagraph c. or sub-subparagraph d., as appropriate.

c. If the recipient returns to covered employment, transferred amounts must ~~shall~~ be deposited in individual accounts under the investment plan ~~Public Employee Optional Retirement Program~~, as directed by the member participant. Vested and nonvested amounts shall be separately accounted for separately as provided in s. 121.4501(6).

d. If the recipient fails to return to covered employment upon recovery from disability:

(I) Any remaining vested amount must ~~shall~~ be deposited in individual accounts under the investment plan ~~Public Employee Optional Retirement Program~~, as directed by the member participant, and is ~~shall~~ be payable as provided in subsection (1).

(II) Any remaining nonvested amount must ~~shall~~ be held in a suspense account and is ~~shall~~ be forfeitable after 5 years as provided in s. 121.4501(6).

3. If present value was reassigned from the pension plan defined benefit program to the disability program of the ~~Florida Retirement System~~ as provided under subparagraph (a)2., the full present value amount must ~~shall~~ be returned to the defined benefit account within the Florida Retirement System Trust Fund and the member's affected individual's associated retirement credit under the pension plan must defined benefit program shall be reinstated in full. Any benefit based upon such credit must ~~shall~~ be calculated as provided in s. 121.091(4)(h)1.

(1) *Nonadmissible causes of disability.*—A member is participant ~~shall~~ not be entitled to receive a disability retirement benefit if the disability

results from any injury or disease sustained or inflicted as described in s. 121.091(4)(i).

(m) *Disability retirement of justice or judge by order of Supreme Court.*

1. If a member participant is a justice of the Supreme Court, judge of a district court of appeal, circuit judge, or judge of a county court who has served for the years equal to, or greater than, the vesting requirement in s. 121.021(45) ~~6 years or more~~ as an elected constitutional judicial officer, including service as a judicial officer in any court abolished pursuant to Art. V of the State Constitution, and who is retired for disability ~~by order of the Supreme Court upon recommendation of the Judicial Qualifications Commission pursuant to s. 12, the provisions of Art. V of the State Constitution,~~ the member's participant's Option 1 monthly disability benefit amount as provided in s. 121.091(6)(a)1. shall be two-thirds of his or her monthly compensation as of the member's participant's disability retirement date. The member ~~Such a participant~~ may alternatively elect to receive an actuarially adjusted disability retirement benefit under any other option as provided in s. 121.091(6)(a), or to receive the normal benefit payable under the Public Employee Optional Retirement Program as set forth in subsection (1).

2. If any justice or judge who is a member participant of the investment plan ~~Public Employee Optional Retirement Program of the Florida Retirement System~~ is retired for disability ~~by order of the Supreme Court upon recommendation of the Judicial Qualifications Commission pursuant to s. 12, the provisions of Art. V of the State Constitution~~ and elects to receive a monthly disability benefit under the provisions of this paragraph:

a. Any present value amount that was transferred to his or her investment plan program ~~program~~ account and all employer and employee contributions made to such account on his or her behalf, plus interest and earnings thereon, must ~~shall~~ be transferred to and deposited in the disability account of the Florida Retirement System Trust Fund; and

b. The monthly disability benefits payable under this paragraph ~~for any affected justice or judge retired from the Florida Retirement System pursuant to Art. V of the State Constitution~~ shall be paid from the disability account of the Florida Retirement System Trust Fund.

(n) *Death of retiree or beneficiary.*—Upon the death of a disabled retiree or beneficiary of the retiree ~~thereof~~ who is receiving monthly disability benefits under this subsection, the monthly benefits shall be paid through the last day of the month of death and shall terminate, or be adjusted, if applicable, as of that date in accordance with the optional form of benefit selected at the time of retirement. The department of ~~Management Services~~ may adopt rules necessary to administer this paragraph.

(3) DEATH BENEFITS.—Under the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~:

(a) Survivor benefits ~~are shall be~~ payable in accordance with the following terms and conditions:

1. To the extent vested, benefits ~~are shall be~~ payable only to a member's participant's beneficiary or beneficiaries as designated by the member participant 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 ~~under this subsection~~, the member participant must be deceased.

(b) In the event of a member's participant'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 participant retired on the date of death. No other death benefits ~~are shall be~~ available for survivors of members participants under the ~~Public Employee Optional Retirement Program~~, except for such benefits, or coverage for such benefits, as are otherwise provided by law or are separately provided ~~afforded~~ by the employer, at the employer's discretion.

(c) Upon receipt by the third-party administrator of a properly executed application for distribution of benefits, the total accumulated benefit ~~is shall~~ be payable by the third-party administrator to the member's participant's surviving beneficiary or beneficiaries, as:

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

2. An eligible rollover distribution, if permitted, on behalf of the surviving spouse of a deceased member participant, whereby all accrued benefits, plus interest and investment earnings, are paid from the deceased member's participant'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 participant'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 participant or the surviving beneficiary.

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

(4) LIMITATION ON LEGAL PROCESS.—The benefits payable to any person under the Florida Retirement System Investment Plan Public Employee Optional Retirement Program, and any contributions accumulated under the plan such program, are not subject to assignment, execution, attachment, or any legal process, except for qualified domestic relations orders by a court of competent jurisdiction, income deduction orders as provided in s. 61.1301, and federal income tax levies.

Section 31. Section 121.5911, Florida Statutes, is amended to read:

121.5911 Disability retirement program; qualified status; rulemaking authority.—It is the intent of the Legislature that the disability retirement program for members participants of the Florida Retirement System Investment Plan Public Employee Optional Retirement Program as created in this act must meet all applicable requirements of federal law for a qualified plan. The department of Management Services shall seek a private letter ruling from the Internal Revenue Service on the disability retirement program for participants of the Public Employee Optional Retirement Program. Consistent with the private letter ruling, the department of Management Services shall adopt any necessary rules necessary required to maintain the qualified status of the disability retirement program and the Florida Retirement System Pension defined benefit Plan.

Section 32. Section 121.70, Florida Statutes, is amended to read:

121.70 Legislative purpose and intent.—

(1) This part provides for a uniform system for funding benefits provided under the Florida Retirement System Pension Plan defined benefit program established under part I of this chapter (referred to in this part as the pension plan defined benefit program) and under the Florida Retirement System Investment Plan Public Employee Optional Retirement Program established under part II of this chapter (referred to in this part as the investment plan optional retirement program). The Legislature recognizes and declares that the Florida Retirement System is a single retirement system, consisting of two retirement plans and other nonintegrated programs. Employees and employers participating in the Florida Retirement System collectively shall be responsible for making contributions to support the benefits provided afforded under both plans. The employees and As provided in this part, employers participating in the Florida Retirement System shall make contributions based upon uniform contribution rates determined as a percentage of the employee's gross monthly compensation total payroll for the employee's each class or subclass of Florida Retirement System membership, irrespective of the which retirement plan in which the individual employee is enrolled employees may elect. This shall be known as a uniform or blended contribution rate system.

(2) In establishing a uniform contribution rate system, it is the intent of the Legislature to:

(a) Provide greater stability and certainty in financial planning and budgeting for Florida Retirement System employers by eliminating the fiscal instability that would be caused by dual rates coupled with employee-selected plan participation;

(b) Provide greater fiscal equity and uniformity for system employers by effectively distributing the financial burden and benefit of short-term system deficits and surpluses, respectively, in proportion to total system payroll; and

(c) Allow employees to make their retirement plan selection decisions free of circumstances that may cause employers to favor one plan choice over another.

Section 33. 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 ~~thereunder~~ to determine, by Florida Retirement System employee membership class, the dollar contribution amounts necessary for the ~~next~~ ~~forthcoming~~ fiscal year for the ~~pension plan defined benefit program~~. In addition, the actuary shall determine, by Florida Retirement System membership class, based on an estimate for the ~~next~~ ~~forthcoming~~ fiscal year of the gross compensation of employees participating in the ~~investment plan optional retirement program~~, the dollar contribution amounts necessary to make the allocations required under ss. 121.72 and 121.73. For each employee membership class and subclass, the actuarial study ~~must~~ ~~shall~~ 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.

(2) Based on the uniform rates set forth in ~~subsections~~ ~~subsection~~ (3), (4), ~~and~~ (5), ~~employees and~~ employers shall make monthly contributions to the Division of Retirement ~~as required in s. 121.061(1)~~, which shall initially deposit the funds into the Florida Retirement System Contributions Clearing Trust Fund. A change in a contribution rate is effective the first day of the month for which a full month's employer ~~and employee~~ contribution may be made on or after the beginning date of the change. Beginning July 1, 2011, each employee shall contribute the contributions required in subsection (3). The employer shall deduct the contribution from the employee's monthly salary, and the contribution shall be submitted to the division. These contributions shall be reported as employer-paid employee contributions, and credited to the account of the employee. The contributions shall be deducted from the employee's salary before the computation of applicable federal taxes and treated as employer contributions under 26 U.S.C. s. 414(h)(2). The employer specifies that the contributions, although designated as employee contributions, are being paid by the employer in lieu of contributions by the employee. The employee does not have the option of choosing to receive the contributed amounts directly instead of having them

paid by the employer to the plan. Such contributions are mandatory and each employee is considered to have consented to payroll deductions. Payment of an employee’s salary or wages, less the contribution, is a full and complete discharge and satisfaction of all claims and demands for the service rendered by employees during the period covered by the payment, except their claims to the benefits to which they may be entitled under this chapter.

(3) Required employee retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2011</u>
<u>Regular Class</u>	<u>3.00%</u>
<u>Special Risk Class</u>	<u>3.00%</u>
<u>Special Risk</u>	<u>3.00%</u>
<u>Administrative Support Class</u>	
<u>Elected Officers’ Class—</u>	<u>3.00%</u>
<u>Legislators, Governor, Lt. Governor,</u>	
<u>Cabinet Officers,</u>	
<u>State Attorneys,</u>	
<u>Public Defenders</u>	
<u>Elected Officers’ Class—</u>	<u>3.00%</u>
<u>Justices, Judges</u>	
<u>Elected Officers’ Class—</u>	<u>3.00%</u>
<u>County Elected Officers</u>	
<u>Senior Management Service Class</u>	<u>3.00%</u>
<u>DROP</u>	<u>0.00%</u>

(4)(3) Required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2011</u>	<u>Percentage of Gross Compensation, Effective July 1, 2012</u>
<u>Regular Class</u>	<u>3.28%</u> 8.69%	<u>3.28%</u> 9.63%
<u>Special Risk Class</u>	<u>10.21%</u> 19.76%	<u>10.21%</u> 22.11%
<u>Special Risk</u>	<u>4.07%</u> 11.39%	<u>4.07%</u> 12.10%
<u>Administrative Support Class</u>		

Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>7.02%</u> 13.32%	<u>7.02%</u> 15.20%
Elected Officers' Class— Justices, Judges	<u>9.78%</u> 18.40%	<u>9.78%</u> 20.65%
Elected Officers' Class— County Elected Officers	<u>9.27%</u> 15.37%	<u>9.27%</u> 17.50%
Senior Management Service Class	<u>4.81%</u> 11.96%	<u>4.81%</u> 13.43%
DROP	<u>3.31%</u> 9.80%	<u>3.31%</u> 11.14%

(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:

<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2011</u>	<u>Percentage of Gross Compensation, Effective July 1, 2012</u>
<u>Regular Class</u>	<u>0.49%</u>	<u>2.16%</u>
<u>Special Risk Class</u>	<u>2.75%</u>	<u>8.21%</u>
<u>Special Risk</u>	<u>0.83%</u>	<u>21.40%</u>
<u>Administrative Support Class</u>		
<u>Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders</u>	<u>0.88%</u>	<u>21.76%</u>
<u>Elected Officers' Class— Justices, Judges</u>	<u>0.77%</u>	<u>12.86%</u>
<u>Elected Officers' Class— County Elected Officers</u>	<u>0.73%</u>	<u>22.05%</u>
<u>Senior Management Service Class</u>	<u>0.32%</u>	<u>10.51%</u>
<u>DROP</u>	<u>0.00%</u>	<u>6.36%</u>

(6) If a member is reported under an incorrect membership class and the amount of contributions reported and remitted are less than the amount required, the employer shall owe the difference, plus the delinquent fee, of 1 percent for each calendar month or part thereof that the contributions should have been paid. The delinquent assessment may not be waived. If the contributions reported and remitted are more than the amount required, the

employer shall receive a credit to be applied against future contributions owed.

(7)(4) The state actuary shall recognize and use an appropriate level of available excess assets of the Florida Retirement System Trust Fund to offset the difference between the normal costs of the Florida Retirement System and the statutorily prescribed contribution rates.

Section 34. Section 121.72, Florida Statutes, is amended to read:

121.72 Allocations to investment plan member ~~optional retirement program participant~~ accounts; percentage amounts.—

(1) The allocations established in subsection (4) shall fund retirement benefits under the investment plan ~~optional retirement program~~ and shall be transferred monthly by the Division of Retirement from the Florida Retirement System Contributions Clearing Trust Fund to the third-party administrator for deposit in each participating employee’s individual account based on the membership class of the participant.

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

(3) Employer and employee participant contributions to member participant accounts shall be accounted for separately. ~~Participant contributions may be made only if expressly authorized by law.~~ Interest and investment earnings on contributions shall accrue on a tax-deferred basis until proceeds are distributed.

(4) Effective July 1, 2002, allocations from the Florida Retirement System Contributions Clearing Trust Fund to investment plan member ~~optional retirement program participant~~ accounts are ~~shall be~~ 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%
Elected Officers’ Class— County Elected Officers	16.20%

Senior Management Service Class 10.95%

Section 35. Section 121.73, Florida Statutes, is amended to read:

121.73 Allocations for member ~~optional retirement program participant~~ disability coverage; percentage amounts.—

(1) The allocations established in subsection (3) shall be used to provide disability coverage for members ~~participants~~ in the investment plan ~~optional retirement program~~ and shall be transferred monthly by the Division of Retirement from the Florida Retirement System Contributions Clearing Trust Fund to the disability account of the Florida Retirement System Trust Fund.

(2) The allocations are stated as a percentage of each investment plan member's ~~optional retirement program participant's~~ gross compensation for the calendar month. A change in a contribution percentage is effective the first day of the month for which retirement contributions ~~a full month's employer contribution~~ may be made on or after the beginning date of the change. Contribution percentages may be modified by general law.

(3) Effective July 1, 2002, allocations from the Florida Retirement System Contributions ~~FRS Contribution~~ Clearing Trust Fund to provide disability coverage for members ~~participants~~ in the investment plan ~~optional retirement program~~, and to offset the costs of administering said coverage, are shall be as follows:

Membership Class	Percentage of Gross Compensation
Regular Class	0.25%
Special Risk Class	1.33%
Special Risk Administrative Support Class	0.45%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
Elected Officers' Class— Justices, Judges	0.73%
Elected Officers' Class— County Elected Officers	0.41%
Senior Management Service Class	0.26%

Section 36. Section 121.74, Florida Statutes, is amended to read:

121.74 Administrative and educational expenses.—In addition to contributions required under ss. s. 121.71 and 121.73, effective July 1, 2010, through June 30, 2014, employers participating in the Florida Retirement System shall contribute an 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 contribution rate shall be 0.04 percent of the

payroll reported for each class or subclass of membership. The amount contributed 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 ~~optional retirement program~~ and the costs of providing educational services to members of the Florida Retirement System ~~participants in the defined benefit program and the optional retirement program~~. 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 37. Section 121.75, Florida Statutes, is amended to read:

121.75 Allocation for pension plan ~~defined benefit program~~.—After making the transfers required pursuant to ss. 121.71, 121.72, 121.73, 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 ~~defined benefit program~~ benefits and plan administrative costs under the pension plan ~~defined benefit program~~.

Section 38. Section 121.77, Florida Statutes, is amended to read:

121.77 Deductions from member participant ~~optional retirement program participant~~ accounts.—The State Board of Administration may authorize the third-party administrator to deduct reasonable fees and apply appropriate charges to investment plan member ~~optional retirement program participant~~ accounts. In no event may ~~shall~~ administrative and educational expenses exceed the portion of employer contributions earmarked for such expenses under this part, except for reasonable administrative charges assessed against member participant ~~optional retirement program participant~~ accounts of persons for whom no employer contributions are made during the calendar quarter. Investment management fees shall be deducted from member participant ~~optional retirement program participant~~ accounts, pursuant to the terms of the contract between the provider and the board.

Section 39. Section 121.78, Florida Statutes, is amended to read:

121.78 Payment and distribution of contributions.—

(1) Contributions made pursuant to this part shall be paid by the employer, including the employee contribution, to the Division of Retirement by electronic funds transfer no later than the 5th working day of the month immediately following the month during which the payroll period ended. Accompanying payroll data must be transmitted to the division concurrent with the contributions.

(2) The division, the State Board of Administration, and the third-party administrator, as applicable, shall ensure that the contributions are

distributed to the appropriate trust funds or participant accounts in a timely manner.

(3)(a) Employee and employer contributions and accompanying payroll data received after the 5th working day of the month are considered late. The employer shall be assessed by the Division of Retirement a penalty of 1 percent of the contributions due for each calendar month or part thereof that the contributions or accompanying payroll data are late. Proceeds from the 1 percent ~~1-percent~~ assessment against contributions made on behalf of members ~~participants~~ of the pension plan ~~must defined benefit program~~ shall be deposited in the Florida Retirement System Trust Fund, and proceeds from the 1-percent assessment against contributions made on behalf of members ~~participants~~ of the investment plan ~~optional retirement program~~ shall be transferred to the third-party administrator for deposit into member ~~participant~~ accounts, as provided in paragraph (c) ~~(b)~~.

(b) Retirement contributions paid for a prior period shall be charged a delinquent fee of 1 percent for each calendar month or part thereof that the contributions should have been paid. This includes prior period contributions due to incorrect wages and contributions from an earlier report or wages and contributions that should have been reported but were not. The delinquent assessments may not be waived.

(c)(b) If employee contributions or contributions made by an employer on behalf of members ~~participants~~ of the investment plan ~~optional retirement program~~ or accompanying payroll data are not received within the calendar month they are due, including, but not limited to, contribution adjustments as a result of employer errors or corrections, and if that delinquency results in market losses to members ~~participants~~, the employer shall reimburse each member's ~~participant's~~ account for market losses resulting from the late contributions. If a member ~~participant~~ has terminated employment and taken a distribution, the member ~~participant~~ is responsible for returning any excess contributions erroneously provided by employers, adjusted for any investment gain or loss incurred during the period such excess contributions were in the member's ~~participant's~~ account. The state board or its designated agent shall communicate to terminated members ~~participants~~ any obligation to repay such excess contribution amounts. However, the state board, its designated agents, the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ Trust Fund, the department, or the Florida Retirement System Trust Fund may not incur any loss or gain as a result of an employer's correction of such excess contributions. The third-party administrator, hired by the state board pursuant to s. 121.4501(8), shall calculate the market losses for each affected member ~~participant~~. If contributions made on behalf of members ~~participants~~ of the investment plan ~~optional retirement program~~ or accompanying payroll data are not received within the calendar month due, the employer shall also pay the cost of the third-party administrator's calculation and reconciliation adjustments resulting from the late contributions. The third-party administrator shall notify the employer of the results of the calculations and the total amount due from the employer for such losses and the costs of calculation and

reconciliation. The employer shall remit to the Division of Retirement the amount due within 30 working days after the date of the penalty notice sent by the division. The division shall transfer that amount to the third-party administrator, which shall deposit proceeds from the 1-percent assessment and from individual market losses into ~~member participant~~ accounts, as appropriate. The state board may adopt rules to administer the provisions regarding late contributions, late submission of payroll data, the process for reimbursing ~~member participant~~ accounts for resultant market losses, and the penalties charged to the employers.

(d) If employee contributions reported by an employer on behalf of members are reduced as a result of employer errors or corrections, and the member has terminated employment and taken a refund or distribution, the employer shall be billed and is responsible for recovering from the member any excess contributions erroneously provided by the employer.

~~(e)~~ (e) Delinquency fees specified in paragraph (a) may be waived by the division of Retirement, with regard to pension plan defined benefit program contributions, and by the state board, with regard to investment plan optional retirement program contributions, only if, in the opinion of the division or the board, as appropriate, exceptional circumstances beyond the employer's control prevented remittance by the prescribed due date notwithstanding the employer's good faith efforts to effect delivery. Such a waiver of delinquency may be granted an employer only once each plan state fiscal year.

(f) If the employer submits excess employer or employee contributions, the employer shall receive a credit to be applied against future contributions owed. The employer is responsible for reimbursing the member for any excess contributions submitted if any return of such an erroneous excess pretax contribution by the program is made within 1 year after making erroneous contributions or such other period allowed under applicable Internal Revenue guidance.

~~(g)~~ (d) If contributions made by an employer on behalf of members participants in the investment plan optional retirement program are delayed in posting to ~~member participant~~ accounts due to acts of God beyond the control of the Division of Retirement, the state board, or the third-party administrator, as applicable, market losses resulting from the late contributions are not payable to the members participants.

Section 40. Paragraph (a) of subsection (4) and paragraph (b) of subsection (5) of section 1012.875, Florida Statutes, are amended, and subsection (7) is added to that section, to read:

1012.875 State Community College System Optional Retirement Program.—Each community college 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 community college or by a consortium of community colleges.

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

2. Effective July 1, 2011, 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. 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 ~~either~~ directly by the college or through the program administrator to the designated company contracting for payment of benefits to the program ~~member participant~~.

(5)

(b) Benefits are payable under the optional retirement program to program participants or their beneficiaries, and ~~the benefits must be paid~~ only by the designated company in accordance with the terms of the contracts applicable to the program participant. Benefits shall accrue in individual accounts that are participant-directed, portable, and funded by employer and ~~employee~~ contributions and the earnings thereon. Benefits funded by employer and ~~employee~~ contributions are payable in accordance with the following terms and conditions:

1. Benefits shall be payable only to a participant, to his or her beneficiaries, or to his or her estate, as designated by the participant.

2. Benefits shall be paid by the provider company or companies in accordance with the law, the provisions of the contract, and any applicable employer rule or policy.

3. In the event of a participant's death, moneys accumulated by, or on behalf of, the participant, less withholding taxes remitted to the Internal Revenue Service, if any, shall be distributed to the participant's designated beneficiary or beneficiaries, or to the participant's estate, as if the participant retired on the date of death as provided in paragraph (d). No other death benefits are ~~shall be~~ available for survivors of participants under the optional

retirement program except for such benefits, or coverage for such benefits, as are separately afforded by the employer at the employer's discretion.

(7) Benefits, including employee contributions, are not payable 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 before termination from all employment relationships with participating employers for 3 calendar months.

Section 41. (1) Effective upon this act becoming a law, the State Board of Administration and the Department of Management Services shall request, as soon as practicable, a determination letter and private letter ruling from the United States Internal Revenue Service. If the United States Internal Revenue Service refuses to act upon a request for a private letter ruling, then a legal opinion from a qualified tax attorney or firm may be substituted for such private letter ruling.

(2) If the board or the department receives notification from the United States Internal Revenue Service that this act or any portion of this act will cause the Florida 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 receipt of such notice, the state board and the department shall notify the presiding officers of the Legislature.

Section 42. 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 43. For the 2011-2012 fiscal year, the sums of \$207,070 of recurring funds and \$31,184 of nonrecurring funds from the Florida Retirement System Operating Trust Fund are appropriated to, and four full-time equivalent positions are authorized for, the Division of Retirement within the Department of Management Services for the purpose of implementing this act.

Section 44. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2011.

Approved by the Governor May 26, 2011.

Filed in Office Secretary of State May 26, 2011.