

1                                   A bill to be entitled  
 2       An act relating to state retirement; creating s.  
 3       121.012, F.S.; providing applicability; amending s.  
 4       121.021, F.S.; clarifying the definition of the terms  
 5       "normal retirement date" and "vesting"; amending s.  
 6       121.0515, F.S.; correcting a cross-reference; amending  
 7       s. 121.055, F.S.; clarifying provisions related to the  
 8       prohibition of hardship loans or payments; clarifying  
 9       that a retiree who is reemployed in a regularly  
 10      established position after a certain date may not be  
 11      enrolled as a renewed member; amending s. 121.071,  
 12      F.S.; clarifying provisions related to the prohibition  
 13      of hardship loans or payments; amending s. 121.091,  
 14      F.S.; making conforming changes to the Deferred  
 15      Retirement Option Program regarding deferral age;  
 16      amending s. 121.122, F.S.; clarifying that a retiree  
 17      who is reemployed in a regularly established position  
 18      after a certain date may not be enrolled as a renewed  
 19      member; amending s. 121.35, F.S.; clarifying  
 20      provisions related to the prohibition of hardship  
 21      loans or payments; clarifying when voluntary  
 22      contributions may be paid out; defining the term  
 23      "benefit" for the purposes of the optional program;  
 24      amending s. 121.4501, F.S.; specifying that the  
 25      definition of "eligible employee" does not include  
 26      certain members reemployed in a regularly established  
 27      position; clarifying that a retiree who is reemployed  
 28      in a regularly established position after a certain

29 date may not be enrolled as a renewed member; amending  
 30 s. 121.591, F.S.; clarifying provisions related to the  
 31 prohibition of hardship loans or payments; amending s.  
 32 1012.875, F.S.; clarifying provisions related to the  
 33 prohibition of hardship loans or payments; providing  
 34 an effective date.

35  
 36 Be It Enacted by the Legislature of the State of Florida:

37  
 38 Section 1. Section 121.012, Florida Statutes, is created  
 39 to read:

40 121.012 Inclusive provisions.—The provisions of part I of  
 41 this chapter shall be applicable to parts II and III of this  
 42 chapter to the extent such provisions are not inconsistent with,  
 43 or duplicative of, the provisions of parts II and III.

44 Section 2. Subsection (29) and paragraph (b) of subsection  
 45 (45) of section 121.021, Florida Statutes, are amended to read:

46 121.021 Definitions.—The following words and phrases as  
 47 used in this chapter have the respective meanings set forth  
 48 unless a different meaning is plainly required by the context:

49 (29) "Normal retirement date" means the date a member  
 50 attains normal retirement age and is vested, which is determined  
 51 as follows:

52 (a)~~1.~~ If a Regular Class member, a Senior Management  
 53 Service Class member, or an Elected Officers' Class member  
 54 initially enrolled:

55 1. Before July 1, 2011:

56 a. The first day of the month the member attains age 62;

57 | or

58 |       b. The first day of the month following the date the  
59 | member completes 30 years of creditable service, regardless of  
60 | age.

61 |       2. ~~If a Regular Class member, a Senior Management Service~~  
62 | ~~Class member, or an Elected Officers' Class member initially~~  
63 | ~~enrolled~~ On or after July 1, 2011:

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

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

69 |       (b) ~~1.~~ 1. If a Special Risk Class member initially enrolled:  
70 |       1. Before July 1, 2011:

71 |       a. The first day of the month the member attains age 55  
72 | and completes the years of creditable service in the Special  
73 | Risk Class equal to or greater than the years of service  
74 | required for vesting;

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

78 |       c. The first day of the month following the date the  
79 | member completes 25 years of creditable service and attains age  
80 | 52, which service may include a maximum of 4 years of military  
81 | service credit if such credit is not claimed under any other  
82 | system and the remaining years are in the Special Risk Class.

83 |       2. ~~If a Special Risk Class member initially enrolled~~ On or  
84 | after July 1, 2011:

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

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

92 c. The first day of the month following the date the  
 93 member completes 30 years of creditable service and attains age  
 94 57, which service may include a maximum of 4 years of military  
 95 service credit if such credit is not claimed under any other  
 96 system and the remaining years are in the Special Risk Class.

97  
 98 For pension plan members, "normal retirement age" is attained on  
 99 the "normal retirement date." For investment plan members,  
 100 normal retirement age means the later of the date a member  
 101 attains his or her normal retirement date as provided in this  
 102 section, or is vested under the investment plan as provided in  
 103 s. 121.4501(6), whichever is later.

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

112 (b) Any member initially enrolled in the Florida

113 Retirement System on or after July 1, 2011, shall be vested in  
 114 the pension plan upon completion of 8 years of creditable  
 115 service.

116 Section 3. Paragraph (k) of subsection (3) of section  
 117 121.0515, Florida Statutes, is amended to read:

118 121.0515 Special Risk Class.—

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

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

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

139 a. That this physical loss or loss of use is total and  
 140 permanent, except in the event that the loss of use is due to a

141 physical injury to the member's brain, in which event the loss  
 142 of use is permanent with at least 75 percent loss of motor  
 143 function with respect to each arm or leg affected.

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

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

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

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

157 2. For the purposes of this paragraph, "qualifying injury"  
 158 means an injury sustained in the line of duty, as certified by  
 159 the member's employing agency, by a special risk member that  
 160 does not result in total and permanent disability as defined in  
 161 s. 121.091(4)(b). An injury is a qualifying injury if the injury  
 162 is a physical injury to the member's physical body resulting in  
 163 a physical loss, or loss of use, of at least two of the  
 164 following: left arm, right arm, left leg, or right leg.

165 Notwithstanding any other provision of this section, an injury  
 166 that would otherwise qualify as a qualifying injury is not  
 167 considered a qualifying injury if and when the member ceases  
 168 employment with the employer for whom he or she was providing

169 special risk services on the date the injury occurred.

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

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

184 Section 4. Paragraph (f) of subsection (1) and paragraph  
 185 (e) of subsection (6) of section 121.055, Florida Statutes, are  
 186 amended to read:

187 121.055 Senior Management Service Class.—There is hereby  
 188 established a separate class of membership within the Florida  
 189 Retirement System to be known as the "Senior Management Service  
 190 Class," which shall become effective February 1, 1987.

191 (1)

192 (f) Effective July 1, 1997:

193 1. Except as provided in subparagraph 3., an elected state  
 194 officer eligible for membership in the Elected Officers' Class  
 195 under s. 121.052(2)(a), (b), or (c) who elects membership in the  
 196 Senior Management Service Class under s. 121.052(3)(c) may,

197 within 6 months after assuming office or within 6 months after  
 198 this act becomes a law for serving elected state officers, elect  
 199 to participate in the Senior Management Service Optional Annuity  
 200 Program, as provided in subsection (6), in lieu of membership in  
 201 the Senior Management Service Class.

202 2. Except as provided in subparagraph 3., an elected  
 203 officer of a local agency employer eligible for membership in  
 204 the Elected Officers' Class under s. 121.052(2)(d) who elects  
 205 membership in the Senior Management Service Class under s.  
 206 121.052(3)(c) may, within 6 months after assuming office, or  
 207 within 6 months after this act becomes a law for serving elected  
 208 officers of a local agency employer, elect to withdraw from the  
 209 Florida Retirement System, as provided in subparagraph (b)2., in  
 210 lieu of membership in the Senior Management Service Class.

211 3. A retiree of a state-administered retirement system who  
 212 is initially reemployed in a regularly established position on  
 213 or after July 1, 2010, as an elected official eligible for the  
 214 Elected Officers' Class may not be enrolled in renewed ~~renew~~  
 215 membership in the Senior Management Service Class or in the  
 216 Senior Management Service Optional Annuity Program as provided  
 217 in subsection (6), and may not withdraw from the Florida  
 218 Retirement System as a renewed member as provided in  
 219 subparagraph (b)2., as applicable, in lieu of membership in the  
 220 Senior Management Service Class.

221 (6)

222 (e) *Benefits.*—

223 1. Benefits under the Senior Management Service Optional  
 224 Annuity Program are payable only to members of the program, or



225 their beneficiaries as designated by the member in the contract  
 226 with the provider company, and must be paid by the designated  
 227 company in accordance with the terms of the annuity contract  
 228 applicable to the member. A member must be terminated from all  
 229 employment relationships with Florida Retirement System  
 230 employers for 3 calendar months to begin receiving the employer-  
 231 funded and employee-funded benefit. The member must meet the  
 232 definition of termination in s. 121.021(39) beginning the month  
 233 after receiving a benefit, including a distribution. Benefits  
 234 funded by employer and employee contributions are payable under  
 235 the terms of the contract to the member, his or her beneficiary,  
 236 or his or her estate, in addition to:

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

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

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

250       d. A lump-sum direct rollover distribution whereby all  
 251 accrued benefits, plus interest and investment earnings, are  
 252 paid from the member's account directly to the custodian of an

253 eligible retirement plan, as defined in s. 402(c)(8)(B) of the  
 254 Internal Revenue Code, on behalf of the member.

255 2. Under the Senior Management Service Optional Annuity  
 256 Program, benefits, including employee contributions, are not  
 257 payable for employee hardships, unforeseeable emergencies,  
 258 loans, medical expenses, educational expenses, purchase of a  
 259 principal residence, payments necessary to prevent eviction or  
 260 foreclosure on an employee's principal residence, or any other  
 261 reason except a requested distribution for retirement, a  
 262 mandatory de minimis distribution authorized by the  
 263 administrator, or a required minimum distribution provided  
 264 pursuant to the Internal Revenue Code ~~before termination from~~  
 265 ~~all employment relationships with participating employers for 3~~  
 266 ~~calendar months.~~

267 3. The benefits payable to any person under the Senior  
 268 Management Service Optional Annuity Program, and any  
 269 contribution accumulated under such program, are not subject to  
 270 assignment, execution, or attachment or to any legal process  
 271 whatsoever.

272 4. Except as provided in subparagraph 5., a member who  
 273 terminates employment and receives a distribution, including a  
 274 rollover or trustee-to-trustee transfer, funded by employer and  
 275 required employee contributions is a retiree of ~~deemed to be~~  
 276 ~~retired from~~ a state-administered retirement system. A retiree  
 277 of a state-administered retirement system who is initially  
 278 reemployed in a regularly established position on or after July  
 279 1, 2010, is not eligible to be enrolled in renewed membership if  
 280 ~~the member is subsequently employed with an employer that~~

281 ~~participates in the Florida Retirement System.~~

282         5. A member who receives optional annuity program benefits  
 283 funded by employer and employee contributions as a mandatory  
 284 distribution of a de minimis account authorized by the  
 285 department is not considered a retiree.

286  
 287 As used in this paragraph, a "de minimis account" means an  
 288 account with a provider company containing employer and employee  
 289 contributions and accumulated earnings of not more than \$5,000  
 290 made under this chapter.

291         Section 5. Subsection (7) of section 121.071, Florida  
 292 Statutes, is amended to read:

293         121.071 Contributions.—Contributions to the system shall  
 294 be made as follows:

295         (7) ~~Before termination of employment,~~ Benefits, including  
 296 employee contributions, are not payable under the pension plan  
 297 for employee hardships, unforeseeable emergencies, loans,  
 298 medical expenses, educational expenses, purchase of a principal  
 299 residence, payments necessary to prevent eviction or foreclosure  
 300 on an employee's principal residence, or any other reason except  
 301 a requested distribution for retirement, a mandatory de minimis  
 302 distribution authorized by the administrator, or a required  
 303 minimum distribution provided pursuant to the Internal Revenue  
 304 Code ~~before termination from all employment relationships with~~  
 305 ~~participating employers.~~

306         Section 6. Paragraph (a) of subsection (13) of section  
 307 121.091, Florida Statutes, is amended to read:

308         121.091 Benefits payable under the system.—Benefits may

309 not be paid under this section unless the member has terminated  
 310 employment as provided in s. 121.021(39)(a) or begun  
 311 participation in the Deferred Retirement Option Program as  
 312 provided in subsection (13), and a proper application has been  
 313 filed in the manner prescribed by the department. The department  
 314 may cancel an application for retirement benefits when the  
 315 member or beneficiary fails to timely provide the information  
 316 and documents required by this chapter and the department's  
 317 rules. The department shall adopt rules establishing procedures  
 318 for application for retirement benefits and for the cancellation  
 319 of such application when the required information or documents  
 320 are not received.

321 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
 322 subject to this section, the Deferred Retirement Option Program,  
 323 hereinafter referred to as DROP, is a program under which an  
 324 eligible member of the Florida Retirement System may elect to  
 325 participate, deferring receipt of retirement benefits while  
 326 continuing employment with his or her Florida Retirement System  
 327 employer. The deferred monthly benefits shall accrue in the  
 328 Florida Retirement System on behalf of the member, plus interest  
 329 compounded monthly, for the specified period of the DROP  
 330 participation, as provided in paragraph (c). Upon termination of  
 331 employment, the member shall receive the total DROP benefits and  
 332 begin to receive the previously determined normal retirement  
 333 benefits. Participation in the DROP does not guarantee  
 334 employment for the specified period of DROP. Participation in  
 335 DROP by an eligible member beyond the initial 60-month period as  
 336 authorized in this subsection shall be on an annual contractual

337 basis for all participants.

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

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

352 2. Except as provided in subparagraph 6., for members  
 353 initially enrolled prior to July 1, 2011, election to  
 354 participate is made within 12 months immediately following the  
 355 date on which the member first reaches normal retirement date,  
 356 or, for a member who reaches normal retirement date based on  
 357 service before he or she reaches age 62, or age 55 for Special  
 358 Risk Class members, election to participate may be deferred to  
 359 the 12 months immediately following the date the member attains  
 360 age 57, or age 52 for Special Risk Class members. Except as  
 361 provided in subparagraph 6., for members initially enrolled on  
 362 or after July 1, 2011, election to participate is made within 12  
 363 months immediately following the date on which the member first  
 364 reaches normal retirement date; or, for a member who reaches

365 normal retirement date based on service before he or she reaches  
 366 age 65, or age 60 for Special Risk Class members, election to  
 367 participate may be deferred to the 12 months immediately  
 368 following the date the member attains age 60, or age 55 for  
 369 Special Risk Class members. A member who delays DROP  
 370 participation during the 12-month period immediately following  
 371 his or her maximum DROP deferral date, except as provided in  
 372 subparagraph 6., loses a month of DROP participation for each  
 373 month delayed. A member who fails to make an election within the  
 374 12-month limitation period forfeits all rights to participate in  
 375 DROP. The member shall advise his or her employer and the  
 376 division in writing of the date DROP begins. The beginning date  
 377 may be subsequent to the 12-month election period but must be  
 378 within the original 60-month participation period provided in  
 379 subparagraph (b)1. When establishing eligibility to participate  
 380 in DROP, the member may elect to include or exclude any optional  
 381 service credit purchased by the member from the total service  
 382 used to establish the normal retirement date. A member who has  
 383 dual normal retirement dates is eligible to elect to participate  
 384 in DROP after attaining normal retirement date in either class.

385 3. The employer of a member electing to participate in  
 386 DROP, or employers if dually employed, shall acknowledge in  
 387 writing to the division the date the member's participation in  
 388 DROP begins and the date the member's employment and DROP  
 389 participation terminates.

390 4. Simultaneous employment of a member by additional  
 391 Florida Retirement System employers subsequent to the  
 392 commencement of a member's participation in DROP is permissible

393 | if such employers acknowledge in writing a DROP termination date  
 394 | no later than the member's existing termination date or the  
 395 | maximum participation period provided in subparagraph (b)1.

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

398 |             a. A change of employment takes place without a break in  
 399 | service so that the member receives salary for each month of  
 400 | continuous DROP participation. If a member receives no salary  
 401 | during a month, DROP participation ceases unless the employer  
 402 | verifies a continuation of the employment relationship for such  
 403 | member pursuant to s. 121.021(39)(b).

404 |             b. The member and new employer notify the division of the  
 405 | identity of the new employer on forms required by the division.

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

413 |         6. Effective July 1, 2001, for instructional personnel as  
 414 | defined in s. 1012.01(2), election to participate in DROP may be  
 415 | made at any time following the date on which the member first  
 416 | reaches normal retirement date. The member shall advise his or  
 417 | her employer and the division in writing of the date on which  
 418 | DROP begins. When establishing eligibility of the member to  
 419 | participate in DROP for the 60-month participation period  
 420 | provided in subparagraph (b)1., the member may elect to include

421 or exclude any optional service credit purchased by the member  
 422 from the total service used to establish the normal retirement  
 423 date. A member who has dual normal retirement dates is eligible  
 424 to elect to participate in either class.

425 Section 7. Subsection (2) of section 121.122, Florida  
 426 Statutes, is amended to read:

427 121.122 Renewed membership in system.-

428 (2) A retiree of a state-administered retirement system  
 429 who is initially reemployed in a regularly established position  
 430 on or after July 1, 2010, may not be enrolled as a renewed  
 431 member is not eligible for renewed membership.

432 Section 8. Paragraphs (a), (b), and (g) of subsection (5)  
 433 of section 121.35, Florida Statutes, are amended to read:

434 121.35 Optional retirement program for the State  
 435 University System.-

436 (5) BENEFITS.-

437 (a) Benefits are payable under the optional retirement  
 438 program only to vested members participating in the program, or  
 439 their beneficiaries as designated by the member in the contract  
 440 with a provider company, and such benefits shall be paid only by  
 441 the designated company in accordance with s. 403(b) of the  
 442 Internal Revenue Code and the terms of the annuity contract or  
 443 investment contracts applicable to the member. A "benefit" under  
 444 the optional retirement program is a distribution requested by  
 445 the member or surviving beneficiary funded in part or in whole  
 446 by employer or required employee contributions, plus earnings  
 447 and includes rolling a distribution over to another qualified  
 448 plan. Benefits accrue in individual accounts that are member-



449 | directed, portable, and funded by employer and employee  
 450 | contributions and the earnings thereon. The member must be  
 451 | terminated for 3 calendar months from all employment  
 452 | relationships with all Florida Retirement System employers to  
 453 | begin receiving the benefit. Benefits funded by employer and  
 454 | required employee contributions are payable in accordance with  
 455 | the following terms and conditions:

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

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

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

472 |       (b) Benefits, including employee contributions, are not  
 473 | payable for employee hardships, unforeseeable emergencies,  
 474 | loans, medical expenses, educational expenses, purchase of a  
 475 | principal residence, payments necessary to prevent eviction or  
 476 | foreclosure on an employee's principal residence, or any other

477 | reason except a requested distribution for retirement, a  
 478 | mandatory de minimis distribution authorized by the  
 479 | administrator, or a required minimum distribution provided  
 480 | pursuant to the Internal Revenue Code ~~before termination from~~  
 481 | ~~all employment relationships with participating employers for 3~~  
 482 | ~~calendar months.~~

483 | (g) Benefits funded by the participating member's  
 484 | voluntary personal contributions may be paid out after  
 485 | termination from employment with all participating employers for  
 486 | 3 calendar months ~~at any time~~ and in any form within the limits  
 487 | provided in the contract between the member and the provider  
 488 | company. The member shall notify the provider company regarding  
 489 | the date and provisions under which he or she wants to receive  
 490 | the employee-funded portion of the plan.

491 | Section 9. Paragraph (e) of subsection (2) and paragraph  
 492 | (f) of subsection (4) of section 121.4501, Florida Statutes, are  
 493 | amended to read:

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

495 | (e) "Eligible employee" means an officer or employee, as  
 496 | defined in s. 121.021, who:

497 | 1. Is a member of, or is eligible for membership in, the  
 498 | Florida Retirement System, including any renewed member of the  
 499 | Florida Retirement System initially enrolled before July 1,  
 500 | 2010; or

501 | 2. Participates in, or is eligible to participate in, the  
 502 | Senior Management Service Optional Annuity Program as  
 503 | established under s. 121.055(6), the State Community College  
 504 | System Optional Retirement Program as established under s.

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505 121.051(2)(c), or the State University System Optional  
 506 Retirement Program established under s. 121.35.

507  
 508 The term does not include any member participating in the  
 509 Deferred Retirement Option Program established under s.  
 510 121.091(13), a retiree of a state-administered retirement system  
 511 initially reemployed in a regularly established position on or  
 512 after July 1, 2010, or a mandatory participant of the State  
 513 University System Optional Retirement Program established under  
 514 s. 121.35.

515 (4) PARTICIPATION; ENROLLMENT.—

516 (f) A member of the investment plan who takes a  
 517 distribution of any contributions from his or her investment  
 518 plan account is considered a retiree. A retiree who is initially  
 519 reemployed in a regularly established position on or after July  
 520 1, 2010, is not eligible ~~for~~ to be enrolled in renewed  
 521 membership.

522 Section 10. Section 121.591, Florida Statutes, is amended  
 523 to read:

524 121.591 Payment of benefits.—Benefits may not be paid  
 525 under the Florida Retirement System Investment Plan unless the  
 526 member has terminated employment as provided in s.  
 527 121.021(39)(a) or is deceased and a proper application has been  
 528 filed as prescribed by the state board or the department. ~~Before~~  
 529 ~~termination of employment,~~ Benefits, including employee  
 530 contributions, are not payable under the investment plan for  
 531 employee hardships, unforeseeable emergencies, loans, medical  
 532 expenses, educational expenses, purchase of a principal

533 residence, payments necessary to prevent eviction or foreclosure  
 534 on an employee's principal residence, or any other reason except  
 535 a requested distribution for retirement, a mandatory de minimis  
 536 distribution authorized by the administrator, or a required  
 537 minimum distribution provided pursuant to the Internal Revenue  
 538 Code ~~prior to termination from all employment relationships with~~  
 539 ~~participating employers~~. The state board or department, as  
 540 appropriate, may cancel an application for retirement benefits  
 541 if the member or beneficiary fails to timely provide the  
 542 information and documents required by this chapter and the rules  
 543 of the state board and department. In accordance with their  
 544 respective responsibilities, the state board and the department  
 545 shall adopt rules establishing procedures for application for  
 546 retirement benefits and for the cancellation of such application  
 547 if the required information or documents are not received. The  
 548 state board and the department, as appropriate, are authorized  
 549 to cash out a de minimis account of a member who has been  
 550 terminated from Florida Retirement System covered employment for  
 551 a minimum of 6 calendar months. A de minimis account is an  
 552 account containing employer and employee contributions and  
 553 accumulated earnings of not more than \$5,000 made under the  
 554 provisions of this chapter. Such cash-out must be a complete  
 555 lump-sum liquidation of the account balance, subject to the  
 556 provisions of the Internal Revenue Code, or a lump-sum direct  
 557 rollover distribution paid directly to the custodian of an  
 558 eligible retirement plan, as defined by the Internal Revenue  
 559 Code, on behalf of the member. Any nonvested accumulations and  
 560 associated service credit, including amounts transferred to the

561 suspense account of the Florida Retirement System Investment  
 562 Plan Trust Fund authorized under s. 121.4501(6), shall be  
 563 forfeited upon payment of any vested benefit to a member or  
 564 beneficiary, except for de minimis distributions or minimum  
 565 required distributions as provided under this section. If any  
 566 financial instrument issued for the payment of retirement  
 567 benefits under this section is not presented for payment within  
 568 180 days after the last day of the month in which it was  
 569 originally issued, the third-party administrator or other duly  
 570 authorized agent of the state board shall cancel the instrument  
 571 and credit the amount of the instrument to the suspense account  
 572 of the Florida Retirement System Investment Plan Trust Fund  
 573 authorized under s. 121.4501(6). Any amounts transferred to the  
 574 suspense account are payable upon a proper application, not to  
 575 include earnings thereon, as provided in this section, within 10  
 576 years after the last day of the month in which the instrument  
 577 was originally issued, after which time such amounts and any  
 578 earnings attributable to employer contributions shall be  
 579 forfeited. Any forfeited amounts are assets of the trust fund  
 580 and are not subject to chapter 717.

581 (1) NORMAL BENEFITS.—Under the investment plan:

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

585 1. Benefits are payable only to a member, an alternate  
 586 payee of a qualified domestic relations order, or a beneficiary.

587 2. Benefits shall be paid by the third-party administrator  
 588 or designated approved providers in accordance with the law, the

589 | contracts, and any applicable board rule or policy.

590 |         3.     The member must be terminated from all employment with  
591 | all Florida Retirement System employers, as provided in s.  
592 | 121.021(39).

593 |         4.     Benefit payments may not be made until the member has  
594 | been terminated for 3 calendar months, except that the state  
595 | board may authorize by rule for the distribution of up to 10  
596 | percent of the member's account after being terminated for 1  
597 | calendar month if the member has reached the normal retirement  
598 | date as defined in s. 121.021.

599 |         5.     If a member or former member of the Florida Retirement  
600 | System receives an invalid distribution, such person must either  
601 | repay the full amount within 90 days after receipt of final  
602 | notification by the state board or the third-party administrator  
603 | that the distribution was invalid, or, in lieu of repayment, the  
604 | member must terminate employment from all participating  
605 | employers. If such person fails to repay the full invalid  
606 | distribution within 90 days after receipt of final notification,  
607 | the person may be deemed retired from the investment plan by the  
608 | state board and is subject to s. 121.122. If such person is  
609 | deemed retired, any joint and several liability set out in s.  
610 | 121.091(9)(d)2. is void, and the state board, the department, or  
611 | the employing agency is not liable for gains on payroll  
612 | contributions that have not been deposited to the person's  
613 | account in the investment plan, pending resolution of the  
614 | invalid distribution. The member or former member who has been  
615 | deemed retired or who has been determined by the state board to  
616 | have taken an invalid distribution may appeal the agency

617 decision through the complaint process as provided under s.  
 618 121.4501(9)(g)3. As used in this subparagraph, the term "invalid  
 619 distribution" means any distribution from an account in the  
 620 investment plan which is taken in violation of this section, s.  
 621 121.091(9), or s. 121.4501.

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

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

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

642 (d) The distribution payment method selected by the member  
 643 or beneficiary, and the retirement of the member or beneficiary,  
 644 is final and irrevocable at the time a benefit distribution

645 payment is cashed, deposited, or transferred to another  
 646 financial institution. Any additional service that remains  
 647 unclaimed at retirement may not be claimed or purchased, and the  
 648 type of retirement may not be changed, except that if a member  
 649 recovers from a disability, the member may subsequently request  
 650 benefits under subsection (2).

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

654 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided  
 655 under this subsection are payable in lieu of the benefits that  
 656 would otherwise be payable under the provisions of subsection  
 657 (1). Such benefits must be funded from employer contributions  
 658 made under s. 121.571, transferred employee contributions and  
 659 funds accumulated pursuant to paragraph (a), and interest and  
 660 earnings thereon.

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

663 1. All moneys accumulated in the member's account,  
 664 including vested and nonvested accumulations as described in s.  
 665 121.4501(6), must be transferred from such individual accounts  
 666 to the division for deposit in the disability account of the  
 667 Florida Retirement System Trust Fund. Such moneys must be  
 668 accounted for separately. Earnings must be credited on an annual  
 669 basis for amounts held in the disability accounts of the Florida  
 670 Retirement System Trust Fund based on actual earnings of the  
 671 trust fund.

672 2. If the member has retained retirement credit earned



673 | under the pension plan as provided in s. 121.4501(3), a sum  
 674 | representing the actuarial present value of such credit within  
 675 | the Florida Retirement System Trust Fund shall be reassigned by  
 676 | the division from the pension plan to the disability program as  
 677 | implemented under this subsection and shall be deposited in the  
 678 | disability account of the trust fund. Such moneys must be  
 679 | accounted for separately.

680 |       (b) *Disability retirement; entitlement.*—

681 |       1. A member of the investment plan who becomes totally and  
 682 | permanently disabled, as defined in paragraph (d), after  
 683 | completing 8 years of creditable service, or a member who  
 684 | becomes totally and permanently disabled in the line of duty  
 685 | regardless of length of service, is entitled to a monthly  
 686 | disability benefit.

687 |       2. In order for service to apply toward the 8 years of  
 688 | creditable service required for regular disability benefits, or  
 689 | toward the creditable service used in calculating a service-  
 690 | based benefit as provided under paragraph (g), the service must  
 691 | be creditable service as described below:

692 |           a. The member's period of service under the investment  
 693 | plan shall be considered creditable service, except as provided  
 694 | in subparagraph d.

695 |           b. If the member has elected to retain credit for service  
 696 | under the pension plan as provided under s. 121.4501(3), all  
 697 | such service shall be considered creditable service.

698 |           c. If the member elects to transfer to his or her member  
 699 | accounts a sum representing the present value of his or her  
 700 | retirement credit under the pension plan as provided under s.

701 121.4501(3), the period of service under the pension plan  
 702 represented in the present value amounts transferred shall be  
 703 considered creditable service, except as provided in  
 704 subparagraph d.

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

709 (c) *Disability retirement effective date.*—The effective  
 710 retirement date for a member who applies and is approved for  
 711 disability retirement shall be established as provided under s.  
 712 121.091(4) (a)2. and 3.

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

719 (e) *Proof of disability.*— Before approving payment of any  
 720 disability retirement benefit, the division shall require proof  
 721 that the member is totally and permanently disabled as provided  
 722 under s. 121.091(4) (c).

723 (f) *Disability retirement benefit.*—Upon the disability  
 724 retirement of a member under this subsection, the member shall  
 725 receive a monthly benefit that begins accruing on the first day  
 726 of the month of disability retirement, as approved by the  
 727 division, and is payable on the last day of that month and each  
 728 month thereafter during his or her lifetime and continued

729 disability. All disability benefits must be paid out of the  
 730 disability account of the Florida Retirement System Trust Fund  
 731 established under this subsection.

732 (g) *Computation of disability retirement benefit.*—The  
 733 amount of each monthly payment must be calculated as provided  
 734 under s. 121.091(4)(f). Creditable service under both the  
 735 pension plan and the investment plan shall be applicable as  
 736 provided under paragraph (b).

737 (h) *Reapplication.*—A member whose initial application for  
 738 disability retirement is denied may reapply for disability  
 739 benefits as provided in s. 121.091(4)(g).

740 (i) *Membership.*—Upon approval of a member's application  
 741 for disability benefits, the member shall be transferred to the  
 742 pension plan, effective upon his or her disability retirement  
 743 effective date.

744 (j) *Option to cancel.*—A member whose application for  
 745 disability benefits is approved may cancel the application if  
 746 the cancellation request is received by the division before a  
 747 disability retirement warrant has been deposited, cashed, or  
 748 received by direct deposit. Upon cancellation:

749 1. The member's transfer to the pension plan under  
 750 paragraph (i) shall be nullified;

751 2. The member shall be retroactively reinstated in the  
 752 investment plan without hiatus;

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

756 4. The member may elect to receive the benefit payable

757 under subsection (1) in lieu of disability benefits.

758 (k) *Recovery from disability.*—

759 1. The division may require periodic reexaminations at the  
 760 expense of the disability program account of the Florida  
 761 Retirement System Trust Fund. Except as provided in subparagraph  
 762 2., all other matters relating to recovery from disability shall  
 763 be as provided under s. 121.091(4)(h).

764 2. Upon recovery from disability, the recipient of  
 765 disability retirement benefits under this subsection shall be a  
 766 compulsory member of the investment plan. The net difference  
 767 between the recipient's original account balance transferred to  
 768 the Florida Retirement System Trust Fund, including earnings and  
 769 total disability benefits paid to such recipient, if any, shall  
 770 be determined as provided in sub-subparagraph a.

771 a. An amount equal to the total benefits paid shall be  
 772 subtracted from that portion of the transferred account balance  
 773 consisting of vested accumulations as described under s.  
 774 121.4501(6), if any, and an amount equal to the remainder of  
 775 benefit amounts paid, if any, shall be subtracted from any  
 776 remaining nonvested accumulations.

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

783 c. If the recipient returns to covered employment,  
 784 transferred amounts must be deposited in individual accounts

785 | under the investment plan, as directed by the member. Vested and  
 786 | nonvested amounts shall be accounted for separately as provided  
 787 | in s. 121.4501(6).

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

790 |             (I) Any remaining vested amount must be deposited in  
 791 | individual accounts under the investment plan, as directed by  
 792 | the member, and is payable as provided in subsection (1).

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

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

803 |             (1) *Nonadmissible causes of disability.*—A member is not  
 804 | entitled to a disability retirement benefit if the disability  
 805 | results from any injury or disease as described in s.  
 806 | 121.091(4)(i).

807 |             (m) *Disability retirement of justice or judge by order of*  
 808 | *Supreme Court.*—

809 |             1. If a member is a justice of the Supreme Court, judge of  
 810 | a district court of appeal, circuit judge, or judge of a county  
 811 | court who has served for the years equal to, or greater than,  
 812 | the vesting requirement in s. 121.021(45) as an elected

813 constitutional judicial officer, including service as a judicial  
 814 officer in any court abolished pursuant to Art. V of the State  
 815 Constitution, and who is retired for disability pursuant to s.  
 816 12, Art. V of the State Constitution, the member's Option 1  
 817 monthly disability benefit amount as provided in s.  
 818 121.091(6)(a)1. shall be two-thirds of his or her monthly  
 819 compensation as of the member's disability retirement date. The  
 820 member may alternatively elect to receive an actuarially  
 821 adjusted disability retirement benefit under any other option as  
 822 provided in s. 121.091(6)(a) or to receive the normal benefit  
 823 payable under subsection (1).

824 2. If any justice or judge who is a member of the  
 825 investment plan is retired for disability pursuant to s. 12,  
 826 Art. V of the State Constitution and elects to receive a monthly  
 827 disability benefit under the provisions of this paragraph:

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

834 b. The monthly disability benefits payable under this  
 835 paragraph shall be paid from the disability account of the  
 836 Florida Retirement System Trust Fund.

837 (n) *Death of retiree or beneficiary.*—Upon the death of a  
 838 disabled retiree or beneficiary of the retiree who is receiving  
 839 monthly disability benefits under this subsection, the monthly  
 840 benefits shall be paid through the last day of the month of

841 death and shall terminate, or be adjusted, if applicable, as of  
 842 that date in accordance with the optional form of benefit  
 843 selected at the time of retirement. The department may adopt  
 844 rules necessary to administer this paragraph.

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

847 (a) Survivor benefits are payable in accordance with the  
 848 following terms and conditions:

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

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

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

856 (b) In the event of a member's death, all vested  
 857 accumulations as described in s. 121.4501(6), less withholding  
 858 taxes remitted to the Internal Revenue Service, shall be  
 859 distributed, as provided in paragraph (c) or as described in s.  
 860 121.4501(20), as if the member retired on the date of death. No  
 861 other death benefits are available for survivors of members,  
 862 except for benefits, or coverage for benefits, as are otherwise  
 863 provided by law or separately provided by the employer, at the  
 864 employer's discretion.

865 (c) Upon receipt by the third-party administrator of a  
 866 properly executed application for distribution of benefits, the  
 867 total accumulated benefit is payable by the third-party  
 868 administrator to the member's surviving beneficiary or

869 beneficiaries, as:

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

872 2. An eligible rollover distribution, if permitted, on  
873 behalf of the surviving spouse of a deceased member, whereby all  
874 accrued benefits, plus interest and investment earnings, are  
875 paid from the deceased member's account directly to the  
876 custodian of an eligible retirement plan, as described in s.  
877 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
878 surviving spouse; or

879 3. A partial lump-sum payment whereby a portion of the  
880 accrued benefit is paid to the deceased member's surviving  
881 spouse or other designated beneficiaries, less withholding taxes  
882 remitted to the Internal Revenue Service, and the remaining  
883 amount is transferred directly to the custodian of an eligible  
884 retirement plan, if permitted, as described in s. 402(c)(8)(B)  
885 of the Internal Revenue Code, on behalf of the surviving spouse.  
886 The proportions must be specified by the member or the surviving  
887 beneficiary.

888  
889 This paragraph does not abrogate other applicable provisions of  
890 state or federal law providing for payment of death benefits.

891 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to  
892 any person under the Florida Retirement System Investment Plan,  
893 and any contributions accumulated under the plan, are not  
894 subject to assignment, execution, attachment, or any legal  
895 process, except for qualified domestic relations orders by a  
896 court of competent jurisdiction, income deduction orders as



897 provided in s. 61.1301, and federal income tax levies.

898 Section 11. Subsection (7) of section 1012.875, Florida  
 899 Statutes, is amended to read:

900 1012.875 State Community College System Optional  
 901 Retirement Program.—Each Florida College System institution may  
 902 implement an optional retirement program, if such program is  
 903 established therefor pursuant to s. 1001.64(20), under which  
 904 annuity or other contracts providing retirement and death  
 905 benefits may be purchased by, and on behalf of, eligible  
 906 employees who participate in the program, in accordance with s.  
 907 403(b) of the Internal Revenue Code. Except as otherwise  
 908 provided herein, this retirement program, which shall be known  
 909 as the State Community College System Optional Retirement  
 910 Program, may be implemented and administered only by an  
 911 individual Florida College System institution or by a consortium  
 912 of Florida College System institutions.

913 (7) Benefits, including employee contributions, are not  
 914 payable for employee hardships, unforeseeable emergencies,  
 915 loans, medical expenses, educational expenses, purchase of a  
 916 principal residence, payments necessary to prevent eviction or  
 917 foreclosure on an employee's principal residence, or any other  
 918 reason except a requested distribution for retirement, a  
 919 mandatory de minimis distribution authorized by the  
 920 administrator, or a required minimum distribution provided  
 921 pursuant to the Internal Revenue Code ~~before termination from~~  
 922 ~~all employment relationships with participating employers for 3~~  
 923 ~~calendar months.~~

924 Section 12. This act shall take effect July 1, 2012.