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LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

04/30/2013 01:41 PM

Senator Simpson moved the following:

1 **Senate Substitute for Amendment (355856) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Paragraph (c) of subsection (2) of section
7 121.051, Florida Statutes, is amended, subsections (3) through
8 (9) of that section are renumbered as subsections (4) through
9 (10), respectively, and a new subsection (3) is added to that
10 section, to read:

11 121.051 Participation in the system.—

12 (2) OPTIONAL PARTICIPATION.—

13 (c) Employees of public community colleges or charter



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14 technical career centers sponsored by public community colleges,
15 designated in s. 1000.21(3), who are members of the Regular
16 Class of the Florida Retirement System and who comply with the
17 criteria set forth in this paragraph and s. 1012.875 may, in
18 lieu of participating in the Florida Retirement System, elect to
19 withdraw from the system altogether and participate in the State
20 Community College System Optional Retirement Program provided by
21 the employing agency under s. 1012.875.

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

29 b. Effective July 1, 2001, through June 30, 2011, each
30 employer shall contribute on behalf of each member of the
31 optional program an amount equal to 10.43 percent of the
32 employee's gross monthly compensation. The employer shall deduct
33 an amount for the administration of the program.

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

41 d. Effective July 1, 2012, each member shall contribute an
42 amount equal to the employee contribution required under s.



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43 121.71(3). The employer shall contribute on behalf of each
44 program member an amount equal to the difference between 8.15
45 percent of the employee's gross monthly compensation and the
46 employee's required contribution based on the employee's gross
47 monthly compensation.

48 e. The employer shall contribute an additional amount to
49 the Florida Retirement System Trust Fund equal to the unfunded
50 actuarial accrued liability portion of the Regular Class
51 contribution rate.

52 2. The decision to participate in the optional retirement
53 program is irrevocable as long as the employee holds a position
54 eligible for participation, except as provided in subparagraph
55 3. Any service creditable under the Florida Retirement System is
56 retained after the member withdraws from the system; however,
57 additional service credit in the system may not be earned while
58 a member of the optional retirement program.

59 3. Effective July 1, 2003, through December 31, 2014, an
60 employee who has elected to participate in the optional
61 retirement program shall have one opportunity, at the employee's
62 discretion, to transfer from the optional retirement program to
63 the pension plan of the Florida Retirement System or to the
64 investment plan established under part II of this chapter,
65 subject to the terms of the applicable optional retirement
66 program contracts. Except as provided in subsection (3), an
67 employee participating in the optional retirement program on or
68 after January 1, 2015, is not eligible to transfer to the
69 Florida Retirement System.

70 a. If the employee chooses to move to the investment plan,
71 any contributions, interest, and earnings creditable to the



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72 employee under the optional retirement program are retained by
73 the employee in the optional retirement program, and the
74 applicable provisions of s. 121.4501(4) govern the election.

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

79 (I) The cost for such credit is the amount representing the
80 present value of the employee's accumulated benefit obligation
81 for the affected period of service. The cost shall be calculated
82 as if the benefit commencement occurs on the first date the
83 employee becomes eligible for unreduced benefits, using the
84 discount rate and other relevant actuarial assumptions that were
85 used to value the Florida Retirement System Pension Plan
86 liabilities in the most recent actuarial valuation. The
87 calculation must include any service already maintained under
88 the pension plan in addition to the years under the optional
89 retirement program. The present value of any service already
90 maintained must be applied as a credit to total cost resulting
91 from the calculation. The division must ensure that the transfer
92 sum is prepared using a formula and methodology certified by an
93 enrolled actuary.

94 (II) The employee must transfer from his or her optional
95 retirement program account and from other employee moneys as
96 necessary, a sum representing the present value of the
97 employee's accumulated benefit obligation immediately following
98 the time of such movement, determined assuming that attained
99 service equals the sum of service in the pension plan and
100 service in the optional retirement program.



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

104 a. The employee is otherwise eligible for membership or
105 renewed membership in the Regular Class of the Florida
106 Retirement System, as provided in s. 121.021(11) and (12) or s.
107 121.122.

108 b. The employee is employed in a full-time position
109 classified in the Accounting Manual for Florida's Public
110 Community Colleges as:

111 (I) Instructional; or

112 (II) Executive Management, Instructional Management, or
113 Institutional Management and the community college determines
114 that recruiting to fill a vacancy in the position is to be
115 conducted in the national or regional market, and the duties and
116 responsibilities of the position include the formulation,
117 interpretation, or implementation of policies, or the
118 performance of functions that are unique or specialized within
119 higher education and that frequently support the mission of the
120 community college.

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

124 5. Members of the program are subject to the same
125 reemployment limitations, renewed membership provisions, and
126 forfeiture provisions applicable to regular members of the
127 Florida Retirement System under ss. 121.091(9), 121.122, and
128 121.091(5), respectively. A member who receives a program
129 distribution funded by employer and required employee



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130 contributions is deemed to be retired from a state-administered
131 retirement system if the member is subsequently employed with an
132 employer that participates in the Florida Retirement System.

133 6. Eligible community college employees are compulsory
134 members of the Florida Retirement System until, pursuant to s.
135 1012.875, a written election to withdraw from the system and
136 participate in the optional retirement program is filed with the
137 program administrator and received by the division.

138 a. A community college employee whose program eligibility
139 results from initial employment shall be enrolled in the
140 optional retirement program retroactive to the first day of
141 eligible employment. The employer and employee retirement
142 contributions paid through the month of the employee plan change
143 shall be transferred to the community college to the employee's
144 optional program account, and, effective the first day of the
145 next month, the employer shall pay the applicable contributions
146 based upon subparagraph 1.

147 b. A community college employee whose program eligibility
148 is due to the subsequent designation of the employee's position
149 as one of those specified in subparagraph 4., or due to the
150 employee's appointment, promotion, transfer, or reclassification
151 to a position specified in subparagraph 4., must be enrolled in
152 the program on the first day of the first full calendar month
153 that such change in status becomes effective. The employer and
154 employee retirement contributions paid from the effective date
155 through the month of the employee plan change must be
156 transferred to the community college to the employee's optional
157 program account, and, effective the first day of the next month,
158 the employer shall pay the applicable contributions based upon



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159 subparagraph 1.

160 7. Effective July 1, 2003, through December 31, 2008, any
161 member of the optional retirement program who has service credit
162 in the pension plan of the Florida Retirement System for the
163 period between his or her first eligibility to transfer from the
164 pension plan to the optional retirement program and the actual
165 date of transfer may, during employment, transfer to the
166 optional retirement program a sum representing the present value
167 of the accumulated benefit obligation under the defined benefit
168 retirement program for the period of service credit. Upon
169 transfer, all service credit previously earned under the pension
170 plan during this period is nullified for purposes of entitlement
171 to a future benefit under the pension plan.

172 (3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.-

173 (a) All eligible employees, except those eligible to
174 withdraw from the system under s. 121.052(3)(d) or s.
175 121.055(1)(b)2., or those eligible for optional retirement
176 programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
177 initially enrolled on or after January 1, 2015, are compulsory
178 members of the investment plan, and membership in the pension
179 plan is not permitted. Employees initially enrolled on or after
180 January 1, 2015, are not eligible to use the election
181 opportunity specified in s. 121.4501(4)(e).

182 (b) Employees eligible to withdraw from the system under s.
183 121.052(3)(d) or s. 121.055(1)(b)2., may choose to withdraw from
184 the system or to participate in the investment plan as provided
185 in those sections. Employees eligible for optional retirement
186 programs under s. 121.051(2)(c) or s. 121.35, may choose to
187 participate in the optional retirement program or the investment



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188 plan as provided in those sections. Eligible employees required
189 to participate in the optional retirement program under s.
190 121.35, pursuant to s. 121.051(1)(a), must participate in the
191 investment plan when employed in a position not eligible for the
192 optional retirement program.

193 Section 2. Paragraph (c) of subsection (3) of section
194 121.052, Florida Statutes, is amended to read:

195 121.052 Membership class of elected officers.—

196 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July
197 1, 1990, participation in the Elected Officers' Class shall be
198 compulsory for elected officers listed in paragraphs (2)(a)-(d)
199 and (f) assuming office on or after said date, unless the
200 elected officer elects membership in another class or withdraws
201 from the Florida Retirement System as provided in paragraphs
202 (3)(a)-(d):

203 (c) Before January 1, 2014, any elected officer may, within
204 6 months after assuming office, or within 6 months after this
205 act becomes a law for serving elected officers, elect membership
206 in the Senior Management Service Class as provided in s. 121.055
207 in lieu of membership in the Elected Officers' Class. Any such
208 election made by a county elected officer shall have no effect
209 upon the statutory limit on the number of nonelective full-time
210 positions that may be designated by a local agency employer for
211 inclusion in the Senior Management Service Class under s.
212 121.055(1)(b)1.

213 Section 3. Paragraph (f) of subsection (1) and paragraph
214 (c) of subsection (6) of section 121.055, Florida Statutes, are
215 amended to read:

216 121.055 Senior Management Service Class.—There is hereby



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217 established a separate class of membership within the Florida
218 Retirement System to be known as the "Senior Management Service
219 Class," which shall become effective February 1, 1987.

220 (1)

221 (f) Effective July 1, 1997, through December 31, 2013:

222 1. Except as provided in subparagraphs ~~subparagraph~~ 3. and
223 4., an elected state officer eligible for membership in the
224 Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who
225 elects membership in the Senior Management Service Class under
226 s. 121.052(3)(c) may, within 6 months after assuming office or
227 within 6 months after this act becomes a law for serving elected
228 state officers, elect to participate in the Senior Management
229 Service Optional Annuity Program, as provided in subsection (6),
230 in lieu of membership in the Senior Management Service Class.

231 2. Except as provided in subparagraphs ~~subparagraph~~ 3. and
232 4., an elected officer of a local agency employer eligible for
233 membership in the Elected Officers' Class under s. 121.052(2)(d)
234 who elects membership in the Senior Management Service Class
235 under s. 121.052(3)(c) may, within 6 months after assuming
236 office, or within 6 months after this act becomes a law for
237 serving elected officers of a local agency employer, elect to
238 withdraw from the Florida Retirement System, as provided in
239 subparagraph (b)2., in lieu of membership in the Senior
240 Management Service Class.

241 3. A retiree of a state-administered retirement system who
242 is initially reemployed in a regularly established position on
243 or after July 1, 2010, as an elected official eligible for the
244 Elected Officers' Class may not be enrolled in renewed
245 membership in the Senior Management Service Class or in the



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246 Senior Management Service Optional Annuity Program as provided
247 in subsection (6), and may not withdraw from the Florida
248 Retirement System as a renewed member as provided in
249 subparagraph (b)2., as applicable, in lieu of membership in the
250 Senior Management Service Class.

251 4. On or after January 1, 2014, an elected official
252 eligible for membership in the Elected Officers' Class may not
253 be enrolled in the Senior Management Service Class or in the
254 Senior Management Service Optional Annuity Program as provided
255 in subsection (6).

256 (6)

257 (c) *Participation.*—

258 1. An eligible employee who is employed on or before
259 February 1, 1987, may elect to participate in the optional
260 annuity program in lieu of participating in the Senior
261 Management Service Class. Such election must be made in writing
262 and filed with the department and the personnel officer of the
263 employer on or before May 1, 1987. An eligible employee who is
264 employed on or before February 1, 1987, and who fails to make an
265 election to participate in the optional annuity program by May
266 1, 1987, shall be deemed to have elected membership in the
267 Senior Management Service Class.

268 2. Except as provided in subparagraph 6., an employee who
269 becomes eligible to participate in the optional annuity program
270 by reason of initial employment commencing after February 1,
271 1987, may, within 90 days after the date of commencing
272 employment, elect to participate in the optional annuity
273 program. Such election must be made in writing and filed with
274 the personnel officer of the employer. An eligible employee who



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275 does not within 90 days after commencing employment elect to
276 participate in the optional annuity program shall be deemed to
277 have elected membership in the Senior Management Service Class.

278 3. A person who is appointed to a position in the Senior
279 Management Service Class and who is a member of an existing
280 retirement system or the Special Risk or Special Risk
281 Administrative Support Classes of the Florida Retirement System
282 may elect to remain in such system or class in lieu of
283 participating in the Senior Management Service Class or optional
284 annuity program. Such election must be made in writing and filed
285 with the department and the personnel officer of the employer
286 within 90 days after such appointment. An eligible employee who
287 fails to make an election to participate in the existing system,
288 the Special Risk Class of the Florida Retirement System, the
289 Special Risk Administrative Support Class of the Florida
290 Retirement System, or the optional annuity program shall be
291 deemed to have elected membership in the Senior Management
292 Service Class.

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

298 5. Effective from July 1, 2002, through September 30, 2002,
299 an active employee in a regularly established position who has
300 elected to participate in the Senior Management Service Optional
301 Annuity Program has one opportunity to choose to move from the
302 Senior Management Service Optional Annuity Program to the
303 Florida Retirement System Pension Plan.



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

310 b. The employee shall receive service credit under the
311 pension plan equal to his or her years of service under the
312 Senior Management Service Optional Annuity Program. The cost for
313 such credit is the amount representing the present value of that
314 employee's accumulated benefit obligation for the affected
315 period of service.

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

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

328 7. Effective January 1, 2014, the Senior Management Service
329 Optional Annuity Program is closed to new members. Members
330 enrolled in the Senior Management Service Optional Annuity
331 Program before January 1, 2014, may retain their membership in
332 the annuity program.



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333 Section 4. Paragraph (c) of subsection (3) of section
334 121.35, Florida Statutes, is amended to read:

335 121.35 Optional retirement program for the State University
336 System.—

337 (3) ELECTION OF OPTIONAL PROGRAM.—

338 (c) Any employee who becomes eligible to participate in the
339 optional retirement program on or after January 1, 1993, shall
340 be a compulsory participant of the program unless such employee
341 elects membership in the Florida Retirement System. Such
342 election shall be made in writing and filed with the personnel
343 officer of the employer. Any eligible employee who fails to make
344 such election within the prescribed time period shall be deemed
345 to have elected to participate in the optional retirement
346 program.

347 1. Any employee whose optional retirement program
348 eligibility results from initial employment shall be enrolled in
349 the program at the commencement of employment. If, within 90
350 days after commencement of employment, the employee elects
351 membership in the Florida Retirement System, such membership
352 shall be effective retroactive to the date of commencement of
353 employment as provided in s. 121.4501(4).

354 2. Any employee whose optional retirement program
355 eligibility results from a change in status due to the
356 subsequent designation of the employee's position as one of
357 those specified in paragraph (2)(a) or due to the employee's
358 appointment, promotion, transfer, or reclassification to a
359 position specified in paragraph (2)(a) shall be enrolled in the
360 optional retirement program upon such change in status and shall
361 be notified by the employer of such action. If, within 90 days



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362 after the date of such notification, the employee elects to
363 retain membership in the Florida Retirement System, such
364 continuation of membership shall be retroactive to the date of
365 the change in status.

366 3. Notwithstanding subparagraphs 1. and 2. the provisions
367 of this paragraph, effective July 1, 1997, any employee who is
368 eligible to participate in the Optional Retirement Program and
369 who fails to execute a contract with one of the approved
370 companies and to notify the department in writing as provided in
371 subsection (4) within 90 days after the date of eligibility
372 shall be deemed to have elected membership in the Florida
373 Retirement System, except as provided in s. 121.051(1)(a). This
374 provision shall also apply to any employee who terminates
375 employment in an eligible position before executing the required
376 investment annuity contract and notifying the department. Such
377 membership shall be retroactive to the date of eligibility, and
378 all appropriate contributions shall be transferred to the
379 Florida Retirement System Trust Fund and the Health Insurance
380 Subsidy Trust Fund. If a member is initially enrolled on or
381 after January 1, 2015, the member is deemed to have elected
382 membership in the Florida Retirement System Investment Plan and
383 such membership shall be retroactive to the date of eligibility.
384 All contributions required under s. 121.72, shall be transferred
385 to a default fund in the investment plan as provided in s.
386 121.4501(4)(f), and the Health Insurance Subsidy Trust Fund.

387 Section 5. Subsections (1) and (4), paragraph (c) of
388 subsection (5), subsection (8), paragraph (a) of subsection (9),
389 paragraphs (a), (b), (c), and (h) of subsection (10), and
390 paragraphs (a) and (c) of subsection (15) of section 121.4501,



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391 Florida Statutes, are amended, and paragraph (h) is added to
392 subsection (9) of that section, to read:

393 121.4501 Florida Retirement System Investment Plan.—

394 (1) The Trustees of the State Board of Administration shall
395 establish a defined contribution program called the "Florida
396 Retirement System Investment Plan" or "investment plan" for
397 members of the Florida Retirement System under which retirement
398 benefits will be provided for eligible employees initially
399 enrolled before January 1, 2015, who elect to participate in the
400 program, and for all eligible employees initially enrolled on or
401 after January 1, 2015, who shall be compulsory members unless
402 otherwise eligible to withdraw from the system under s.
403 121.052(3)(d) or s. 121.055(1)(b)2., or to participate in an
404 optional retirement program under s. 121.051(1)(a), s.
405 121.051(2)(c), or s. 121.35. The retirement benefits shall be
406 provided through member-directed investments, in accordance with
407 s. 401(a) of the Internal Revenue Code and related regulations.
408 The employer and employee shall make contributions, as provided
409 in this section and ss. 121.571 and 121.71, to the Florida
410 Retirement System Investment Plan Trust Fund toward the funding
411 of benefits.

412 (4) PARTICIPATION; ENROLLMENT.—

413 (a)1. Effective June 1, 2002, through February 28, 2003, a
414 90-day election period is provided to each eligible employee
415 participating in the Florida Retirement System, preceded by a
416 90-day education period, permitting each eligible employee to
417 elect membership in the investment plan, and an employee who
418 fails to elect the investment plan during the election period
419 remains in the pension plan. An eligible employee employed in a



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420 regularly established position during the election period is
421 granted the option to make one subsequent election, as provided
422 in paragraph (e). With respect to an eligible employee who does
423 not participate in the initial election period or who is
424 initially employed in a regularly established position after the
425 close of the initial election period but before January 1, 2015,
426 on June 1, 2002, by a state employer:

427 ~~a. Any such employee may elect to participate in the~~
428 ~~investment plan in lieu of retaining his or her membership in~~
429 ~~the pension plan. The election must be made in writing or by~~
430 ~~electronic means and must be filed with the third-party~~
431 ~~administrator by August 31, 2002, or, in the case of an active~~
432 ~~employee who is on a leave of absence on April 1, 2002, by the~~
433 ~~last business day of the 5th month following the month the leave~~
434 ~~of absence concludes. This election is irrevocable, except as~~
435 ~~provided in paragraph (g). Upon making such election, the~~
436 ~~employee shall be enrolled as a member of the investment plan,~~
437 ~~the employee's membership in the Florida Retirement System is~~
438 ~~governed by the provisions of this part, and the employee's~~
439 ~~membership in the pension plan terminates. The employee's~~
440 ~~enrollment in the investment plan is effective the first day of~~
441 ~~the month for which a full month's employer contribution is made~~
442 ~~to the investment plan.~~

443 ~~b. Any such employee who fails to elect to participate in~~
444 ~~the investment plan within the prescribed time period is deemed~~
445 ~~to have elected to retain membership in the pension plan, and~~
446 ~~the employee's option to elect to participate in the investment~~
447 ~~plan is forfeited.~~

448 ~~2. With respect to employees who become eligible to~~



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449 ~~participate in the investment plan by reason of employment in a~~
450 ~~regularly established position with a state employer commencing~~
451 ~~after April 1, 2002:~~

452 ~~a.~~ Any such employee shall, by default, be enrolled in the
453 pension plan at the commencement of employment, and may, by the
454 last business day of the 5th month following the employee's
455 month of hire, elect to participate in the investment plan. The
456 employee's election must be made in writing or by electronic
457 means and must be filed with the third-party administrator. The
458 election to participate in the investment plan is irrevocable,
459 except as provided in paragraph (e) ~~(g)~~.

460 ~~a.b.~~ If the employee files such election within the
461 prescribed time period, enrollment in the investment plan is
462 effective on the first day of employment. The retirement
463 contributions paid through the month of the employee plan change
464 shall be transferred to the investment program, and, effective
465 the first day of the next month, the employer and employee must
466 pay the applicable contributions based on the employee
467 membership class in the program.

468 ~~b.e.~~ An employee who fails to elect to participate in the
469 investment plan within the prescribed time period is deemed to
470 have elected to retain membership in the pension plan, and the
471 employee's option to elect to participate in the investment plan
472 is forfeited.

473 ~~2.3.~~ With respect to employees who become eligible to
474 participate in the investment plan pursuant to s.
475 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
476 participate in the investment plan in lieu of retaining his or
477 her membership in the State Community College System Optional



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478 Retirement Program or the State University System Optional
479 Retirement Program. The election must be made in writing or by
480 electronic means and must be filed with the third-party
481 administrator. This election is irrevocable, except as provided
482 in paragraph (e) ~~(g)~~. Upon making such election, the employee
483 shall be enrolled as a member in the investment plan, the
484 employee's membership in the Florida Retirement System is
485 governed by the provisions of this part, and the employee's
486 participation in the State Community College System Optional
487 Retirement Program or the State University System Optional
488 Retirement Program terminates. The employee's enrollment in the
489 investment plan is effective on the first day of the month for
490 which a full month's employer and employee contribution is made
491 to the investment plan.

492 ~~4. For purposes of this paragraph, "state employer" means~~
493 ~~any agency, board, branch, commission, community college,~~
494 ~~department, institution, institution of higher education, or~~
495 ~~water management district of the state, which participates in~~
496 ~~the Florida Retirement System for the benefit of certain~~
497 ~~employees.~~

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

501 ~~a. Any such employee may elect to participate in the~~
502 ~~investment plan in lieu of retaining his or her membership in~~
503 ~~the pension plan. The election must be made in writing or by~~
504 ~~electronic means and must be filed with the third-party~~
505 ~~administrator by November 30, or, in the case of an active~~
506 ~~employee who is on a leave of absence on July 1, 2002, by the~~



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507 ~~last business day of the 5th month following the month the leave~~
508 ~~of absence concludes. This election is irrevocable, except as~~
509 ~~provided in paragraph (g). Upon making such election, the~~
510 ~~employee shall be enrolled as a member of the investment plan,~~
511 ~~the employee's membership in the Florida Retirement System is~~
512 ~~governed by the provisions of this part, and the employee's~~
513 ~~membership in the pension plan terminates. The employee's~~
514 ~~enrollment in the investment plan is effective the first day of~~
515 ~~the month for which a full month's employer contribution is made~~
516 ~~to the investment program.~~

517 ~~b. Any such employee who fails to elect to participate in~~
518 ~~the investment plan within the prescribed time period is deemed~~
519 ~~to have elected to retain membership in the pension plan, and~~
520 ~~the employee's option to elect to participate in the investment~~
521 ~~plan is forfeited.~~

522 ~~2. With respect to employees who become eligible to~~
523 ~~participate in the investment plan by reason of employment in a~~
524 ~~regularly established position with a district school board~~
525 ~~employer commencing after July 1, 2002:~~

526 ~~a. Any such employee shall, by default, be enrolled in the~~
527 ~~pension plan at the commencement of employment, and may, by the~~
528 ~~last business day of the 5th month following the employee's~~
529 ~~month of hire, elect to participate in the investment plan. The~~
530 ~~employee's election must be made in writing or by electronic~~
531 ~~means and must be filed with the third party administrator. The~~
532 ~~election to participate in the investment plan is irrevocable,~~
533 ~~except as provided in paragraph (g).~~

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



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536 ~~effective on the first day of employment. The employer~~
537 ~~retirement contributions paid through the month of the employee~~
538 ~~plan change shall be transferred to the investment plan, and,~~
539 ~~effective the first day of the next month, the employer shall~~
540 ~~pay the applicable contributions based on the employee~~
541 ~~membership class in the investment plan.~~

542 ~~e. Any such employee who fails to elect to participate in~~
543 ~~the investment plan within the prescribed time period is deemed~~
544 ~~to have elected to retain membership in the pension plan, and~~
545 ~~the employee's option to elect to participate in the investment~~
546 ~~plan is forfeited.~~

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

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

556 ~~a. Any such employee may elect to participate in the~~
557 ~~investment plan in lieu of retaining his or her membership in~~
558 ~~the pension plan. The election must be made in writing or by~~
559 ~~electronic means and must be filed with the third-party~~
560 ~~administrator by February 28, 2003, or, in the case of an active~~
561 ~~employee who is on a leave of absence on October 1, 2002, by the~~
562 ~~last business day of the 5th month following the month the leave~~
563 ~~of absence concludes. This election is irrevocable, except as~~
564 ~~provided in paragraph (g). Upon making such election, the~~



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565 ~~employee shall be enrolled as a participant of the investment~~
566 ~~plan, the employee's membership in the Florida Retirement System~~
567 ~~is governed by the provisions of this part, and the employee's~~
568 ~~membership in the pension plan terminates. The employee's~~
569 ~~enrollment in the investment plan is effective the first day of~~
570 ~~the month for which a full month's employer contribution is made~~
571 ~~to the investment plan.~~

572 ~~b. Any such employee who fails to elect to participate in~~
573 ~~the investment plan within the prescribed time period is deemed~~
574 ~~to have elected to retain membership in the pension plan, and~~
575 ~~the employee's option to elect to participate in the investment~~
576 ~~plan is forfeited.~~

577 ~~2. With respect to employees who become eligible to~~
578 ~~participate in the investment plan by reason of employment in a~~
579 ~~regularly established position with a local employer commencing~~
580 ~~after October 1, 2002:~~

581 ~~a. Any such employee shall, by default, be enrolled in the~~
582 ~~pension plan at the commencement of employment, and may, by the~~
583 ~~last business day of the 5th month following the employee's~~
584 ~~month of hire, elect to participate in the investment plan. The~~
585 ~~employee's election must be made in writing or by electronic~~
586 ~~means and must be filed with the third-party administrator. The~~
587 ~~election to participate in the investment plan is irrevocable,~~
588 ~~except as provided in paragraph (g).~~

589 ~~b. If the employee files such election within the~~
590 ~~prescribed time period, enrollment in the investment plan is~~
591 ~~effective on the first day of employment. The employer~~
592 ~~retirement contributions paid through the month of the employee~~
593 ~~plan change shall be transferred to the investment plan, and,~~



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594 ~~effective the first day of the next month, the employer shall~~
595 ~~pay the applicable contributions based on the employee~~
596 ~~membership class in the investment plan.~~

597 ~~e. Any such employee who fails to elect to participate in~~
598 ~~the investment plan within the prescribed time period is deemed~~
599 ~~to have elected to retain membership in the pension plan, and~~
600 ~~the employee's option to elect to participate in the investment~~
601 ~~plan is forfeited.~~

602 ~~3. For purposes of this paragraph, "local employer" means~~
603 ~~any employer not included in paragraph (a) or paragraph (b).~~

604 ~~(b)(d)~~ Contributions available for self-direction by a
605 member who has not selected one or more specific investment
606 products shall be allocated as prescribed by the state board.
607 The third-party administrator shall notify the member at least
608 quarterly that the member should take an affirmative action to
609 make an asset allocation among the investment products.

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

614 ~~(d)(f)~~ A member of the investment plan who takes a
615 distribution of any contributions from his or her investment
616 plan account is considered a retiree. A retiree who is initially
617 reemployed in a regularly established position on or after July
618 1, 2010, is not eligible to be enrolled in renewed membership.

619 ~~(e)(g)~~ After the period during which an eligible employee
620 initially enrolled before January 1, 2015, had the choice to
621 elect the pension plan or the investment plan, or the month
622 following the receipt of the eligible employee's plan election,



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623 if sooner, the employee shall have one opportunity, at the
624 employee's discretion, to choose to move from the pension plan
625 to the investment plan or from the investment plan to the
626 pension plan. Eligible employees may elect to move between plans
627 only if they are earning service credit in an employer-employee
628 relationship consistent with s. 121.021(17)(b), excluding leaves
629 of absence without pay. Effective July 1, 2005, such elections
630 are effective on the first day of the month following the
631 receipt of the election by the third-party administrator and are
632 not subject to the requirements regarding an employer-employee
633 relationship or receipt of contributions for the eligible
634 employee in the effective month, except when the election is
635 received by the third-party administrator. This paragraph is
636 contingent upon approval by the Internal Revenue Service.

637 1. If the employee chooses to move to the investment plan,
638 the provisions of subsection (3) govern the transfer.

639 2. If the employee chooses to move to the pension plan, the
640 employee must transfer from his or her investment plan account,
641 and from other employee moneys as necessary, a sum representing
642 the present value of that employee's accumulated benefit
643 obligation immediately following the time of such movement,
644 determined assuming that attained service equals the sum of
645 service in the pension plan and service in the investment plan.
646 Benefit commencement occurs on the first date the employee is
647 eligible for unreduced benefits, using the discount rate and
648 other relevant actuarial assumptions that were used to value the
649 pension plan liabilities in the most recent actuarial valuation.
650 For any employee who, at the time of the second election,
651 already maintains an accrued benefit amount in the pension plan,



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652 the then-present value of the accrued benefit is deemed part of
653 the required transfer amount. The division must ensure that the
654 transfer sum is prepared using a formula and methodology
655 certified by an enrolled actuary. A refund of any employee
656 contributions or additional member payments made which exceed
657 the employee contributions that would have accrued had the
658 member remained in the pension plan and not transferred to the
659 investment plan is not permitted.

660 3. Notwithstanding subparagraph 2., an employee who chooses
661 to move to the pension plan and who became eligible to
662 participate in the investment plan by reason of employment in a
663 regularly established position with a state employer after June
664 1, 2002; a district school board employer after September 1,
665 2002; or a local employer after December 1, 2002, must transfer
666 from his or her investment plan account, and from other employee
667 moneys as necessary, a sum representing the employee's actuarial
668 accrued liability. A refund of any employee contributions or
669 additional member participant payments made which exceed the
670 employee contributions that would have accrued had the member
671 remained in the pension plan and not transferred to the
672 investment plan is not permitted.

673 4. An employee's ability to transfer from the pension plan
674 to the investment plan pursuant to paragraph (a) ~~paragraphs (a)-~~
675 ~~(d)~~, and the ability of a current employee to have an option to
676 later transfer back into the pension plan under subparagraph 2.,
677 shall be deemed a significant system amendment. Pursuant to s.
678 121.031(4), any resulting unfunded liability arising from actual
679 original transfers from the pension plan to the investment plan
680 must be amortized within 30 plan years as a separate unfunded



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681 actuarial base independent of the reserve stabilization
682 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
683 direct amortization payment may not be calculated for this base.
684 During this 25-year period, the separate base shall be used to
685 offset the impact of employees exercising their second program
686 election under this paragraph. The actuarial funded status of
687 the pension plan will not be affected by such second program
688 elections in any significant manner, after due recognition of
689 the separate unfunded actuarial base. Following the initial 25-
690 year period, any remaining balance of the original separate base
691 shall be amortized over the remaining 5 years of the required
692 30-year amortization period.

693 5. If the employee chooses to transfer from the investment
694 plan to the pension plan and retains an excess account balance
695 in the investment plan after satisfying the buy-in requirements
696 under this paragraph, the excess may not be distributed until
697 the member retires from the pension plan. The excess account
698 balance may be rolled over to the pension plan and used to
699 purchase service credit or upgrade creditable service in the
700 pension plan.

701 (f) All eligible employees, except those eligible to
702 withdraw from the system under s. 121.052(3)(d) or s.
703 121.055(1)(b)2., or those eligible for optional retirement
704 programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
705 initially enrolled on or after January 1, 2015, are compulsory
706 members of the investment plan. Employees eligible to withdraw
707 from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2.,
708 may choose to withdraw from the system or to participate in the
709 investment plan as provided in those sections. Employees



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710 eligible for optional retirement programs under s. 121.051(2)(c)
711 or s. 121.35, except as provided in s. 121.051(1)(a), may choose
712 to participate in the optional retirement program or the
713 investment plan as provided in those sections. Membership in the
714 pension plan is not permitted except as provided in s.
715 121.591(2).

716 1. Employees initially enrolled on or after January 1,
717 2015, are not permitted to use the election opportunity
718 specified in paragraph (e).

719 2. The amount of retirement contributions paid by the
720 employee and employer, as required under s. 121.72, shall be
721 placed in a default fund as designated by the state board, until
722 an account is activated in the investment plan, at which time
723 the member may move the contributions from the default fund to
724 other funds provided in the investment plan.

725 (5) CONTRIBUTIONS.—

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

730 1. The employer and employee contribution portion earmarked
731 for member accounts shall be used to purchase interests in the
732 appropriate investment vehicles as specified by the member, or
733 in accordance with paragraph (4)(b) ~~(4)(d)~~.

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

737 3. The employer contribution portion earmarked for
738 disability benefits shall be transferred to the Florida



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739 Retirement System Trust Fund.

740 (8) INVESTMENT PLAN ADMINISTRATION.—The investment plan
741 shall be administered by the state board and affected employers.
742 The state board may require oaths, by affidavit or otherwise,
743 and acknowledgments from persons in connection with the
744 administration of its statutory duties and responsibilities for
745 the investment plan. An oath, by affidavit or otherwise, may not
746 be required of a member at the time of enrollment. For members
747 initially enrolled before January 1, 2015, acknowledgment of an
748 employee's election to participate in the program shall be no
749 greater than necessary to confirm the employee's election. The
750 state board shall adopt rules to carry out its statutory duties
751 with respect to administering the investment plan, including
752 establishing the roles and responsibilities of affected state,
753 local government, and education-related employers, the state
754 board, the department, and third-party contractors. The
755 department shall adopt rules necessary to administer the
756 investment plan in coordination with the pension plan and the
757 disability benefits available under the investment plan.

758 (a)1. The state board shall select and contract with a
759 third-party administrator to provide administrative services if
760 those services cannot be competitively and contractually
761 provided by the division. With the approval of the state board,
762 the third-party administrator may subcontract to provide
763 components of the administrative services. As a cost of
764 administration, the state board may compensate any such
765 contractor for its services, in accordance with the terms of the
766 contract, as is deemed necessary or proper by the board. The
767 third-party administrator may not be an approved provider or be



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768 affiliated with an approved provider.

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

789 (b)1. The state board shall select and contract with one or
790 more organizations to provide educational services. With
791 approval of the state board, the organizations may subcontract
792 to provide components of the educational services. As a cost of
793 administration, the state board may compensate any such
794 contractor for its services in accordance with the terms of the
795 contract, as is deemed necessary or proper by the board. The
796 education organization may not be an approved provider or be



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797 affiliated with an approved provider.

798 2. Educational services shall be designed by the state
799 board and department to assist employers, eligible employees,
800 members, and beneficiaries in order to maintain compliance with
801 United States Department of Labor regulations under s. 404(c) of
802 the Employee Retirement Income Security Act of 1974 and to
803 assist employees in their choice of pension plan or investment
804 plan retirement alternatives. Educational services include, but
805 are not limited to, disseminating educational materials;
806 providing retirement planning education; explaining the pension
807 plan and the investment plan; and offering financial planning
808 guidance on matters such as investment diversification,
809 investment risks, investment costs, and asset allocation. An
810 approved provider may also provide educational information,
811 including retirement planning and investment allocation
812 information concerning its products and services.

813 (c)1. In evaluating and selecting a third-party
814 administrator, the state board shall establish criteria for
815 evaluating the relative capabilities and qualifications of each
816 proposed administrator. In developing such criteria, the state
817 board shall consider:

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

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

823 c. The administrator's ability and willingness to
824 coordinate its activities with employers, the state board, and
825 the division, and to supply to such employers, the board, and



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826 the division the information and data they require, including,
827 but not limited to, monthly management reports, quarterly member
828 reports, and ad hoc reports requested by the department or state
829 board.

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

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

839 f. Any other factor deemed necessary by the state board.

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

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

847 b. Ability and willingness to coordinate its activities
848 with the employers, the state board, and the division, and to
849 supply to such employers, the board, and the division the
850 information and data they require, including, but not limited
851 to, reports on educational contacts.

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

854 d. Ability to provide educational services via different



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855 media, including, but not limited to, the Internet, personal
856 contact, seminars, brochures, and newsletters.

857 e. Any other factor deemed necessary by the state board.

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

860 (d) The state board shall develop the form and content of
861 any contracts to be offered under the investment plan. In
862 developing the contracts, the board shall consider:

863 1. The nature and extent of the rights and benefits to be
864 afforded in relation to the contributions required under the
865 plan.

866 2. The suitability of the rights and benefits provided and
867 the interests of employers in the recruitment and retention of
868 eligible employees.

869 (e)1. The state board may contract for professional
870 services, including legal, consulting, accounting, and actuarial
871 services, deemed necessary to implement and administer the
872 investment plan. The state board may enter into a contract with
873 one or more vendors to provide low-cost investment advice to
874 members, supplemental to education provided by the third-party
875 administrator. All fees under any such contract shall be paid by
876 those members who choose to use the services of the vendor.

877 2. The department may contract for professional services,
878 including legal, consulting, accounting, and actuarial services,
879 deemed necessary to implement and administer the investment plan
880 in coordination with the pension plan. The department, in
881 coordination with the state board, may enter into a contract
882 with the third-party administrator in order to coordinate
883 services common to the various programs within the Florida



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884 Retirement System.

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

888 (g) The state board shall receive and resolve member
889 complaints against the program, the third-party administrator,
890 or any program vendor or provider; shall resolve any conflict
891 between the third-party administrator and an approved provider
892 if such conflict threatens the implementation or administration
893 of the program or the quality of services to employees; and may
894 resolve any other conflicts. The third-party administrator shall
895 retain all member records for at least 5 years for use in
896 resolving any member conflicts. The state board, the third-party
897 administrator, or a provider is not required to produce
898 documentation or an audio recording to justify action taken with
899 regard to a member if the action occurred 5 or more years before
900 the complaint is submitted to the state board. It is presumed
901 that all action taken 5 or more years before the complaint is
902 submitted was taken at the request of the member and with the
903 member's full knowledge and consent. To overcome this
904 presumption, the member must present documentary evidence or an
905 audio recording demonstrating otherwise.

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

907 (a) The state board shall develop policy and procedures for
908 selecting, evaluating, and monitoring the performance of
909 approved providers and investment products under the investment
910 plan. In accordance with such policy and procedures, the state
911 board shall designate and contract for a number of investment
912 products as determined by the board. The board shall also select



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913 one or more bundled providers, each of which may offer multiple
914 investment options and related services, if such approach is
915 determined by the board to provide value to the members
916 otherwise not available through individual investment products.
917 Each approved bundled provider may offer investment options that
918 provide members with the opportunity to invest in each of the
919 following asset classes, to be composed of individual options
920 that represent a single asset class or a combination thereof:
921 money markets, United States fixed income, United States
922 equities, and foreign stock. The state board shall review and
923 manage all educational materials, contract terms, fee schedules,
924 and other aspects of the approved provider relationships to
925 ensure that no provider is unduly favored or penalized by virtue
926 of its status within the investment plan. Additionally, the
927 state board, consistent with its fiduciary responsibilities,
928 shall develop one or more investment products to be offered in
929 the investment plan.

930 (h) A self-directed brokerage account shall be offered as a
931 service to investment plan members.

932 1. Notwithstanding any other provision of this section, the
933 state board shall select a provider to offer investment plan
934 members additional investment alternatives by providing a self-
935 directed brokerage account.

936 2. The state board shall contract with a provider to offer
937 a self-directed brokerage account. In selecting the provider,
938 the state board shall consider the following:

939 a. Financial strength and stability as evidenced by the
940 highest ratings assigned by nationally recognized rating
941 services when comparing proposed providers that are so rated.



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942 b. Reasonableness of fees compared to other providers
943 taking into consideration the quantity and quality of services
944 being offered.

945 c. Compliance with the Internal Revenue Code and all
946 applicable federal and state securities laws.

947 d. Available methods for members to interact with the
948 provider and the means by which members may access account
949 information, direct investment of funds, transfer funds, and
950 receive funds prospectuses and related investment materials as
951 required by state and federal regulations.

952 e. The ability to provide prompt, efficient, and accurate
953 responses to member directions, as well as providing
954 confirmations and quarterly account statements in a timely
955 fashion.

956 f. The process by which assets are invested, as well as any
957 waiting periods when monies are transferred.

958 g. Organizational factors, including, but not limited to,
959 financial solvency, organizational depth, and experience in
960 providing self-directed brokerage account services to public
961 defined contribution plans.

962 3. The provider of the self-directed brokerage account
963 shall:

964 a. Make the self-directed brokerage account available under
965 the most beneficial terms available to any customer.

966 b. Agree not to sell or distribute member lists generated
967 through services rendered to the investment plan.

968 c. Not be a bundled provider.

969 d. Provide for an education component approved by the state
970 board that is available in multimedia formats and that provides



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971 impartial and balanced information about investment options and
972 fees associated with participation in the self-directed
973 brokerage account.

974 4. The provider, as well as any of its related entities,
975 may not offer any proprietary products as investment
976 alternatives in the self-directed brokerage account.

977 5. The state board shall monitor the selected provider to
978 ensure continued compliance with established selection criteria,
979 board policy and procedures, state and federal regulations, and
980 any contractual provisions.

981 6. The provider shall ensure that a member opening a self-
982 directed brokerage account is provided a quarterly statement
983 that details member investments in the self-directed brokerage
984 account. The statement shall be in lieu of, and satisfy the
985 requirements of, subsection (11) with respect to the member
986 investments in the self-directed brokerage account. The provider
987 shall include in the statement the following details:

988 a. Account investment options.

989 b. The market value of the account at the close of the
990 current quarter and the previous quarter.

991 c. Account gains and losses.

992 d. Transfers into and out of the account.

993 e. Any fees, charges, penalties, and deductions that apply
994 to the account.

995 7. The self-directed brokerage account may include the
996 following securities as investment alternatives:

997 a. Stocks listed on a Securities and Exchange Commission
998 regulated national exchange.

999 b. Exchange traded funds.



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- 1000 c. Mutual funds.
- 1001 8. The self-directed brokerage account may not include the
1002 following as investment alternatives:
- 1003 a. Illiquid investments.
- 1004 b. Over-the-Counter Bulletin Board securities.
- 1005 c. Pink Sheet securities.
- 1006 d. Leveraged exchange traded funds.
- 1007 e. Direct ownership of foreign securities.
- 1008 f. Derivatives, including, but not limited to, futures and
1009 options contracts on securities, market indexes, and
1010 commodities.
- 1011 g. Buying or trading on margin.
- 1012 h. Investment plan products.
- 1013 i. Any investment that would jeopardize the investment
1014 plan's tax qualified status.
- 1015 9. A member may participate in the self-directed brokerage
1016 account if the member:
- 1017 a. Maintains a minimum balance of \$5,000 in the products
1018 offered under the investment plan.
- 1019 b. Makes a minimum initial transfer of funds into the self-
1020 directed brokerage account of \$1,000.
- 1021 c. Makes subsequent transfers of funds into the self-
1022 directed brokerage account in amounts of \$1,000 or greater.
- 1023 d. Pays all trading fees, commissions, administrative fees,
1024 and any other expenses associated with participating in the
1025 self-directed brokerage account from the funds in the self-
1026 directed brokerage account.
- 1027 e. Does not violate any trading restrictions established by
1028 the provider, the investment plan, or state or federal law.



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1029 10. Employer and employee contributions shall be initially
1030 deposited into investment plan products and may be transferred
1031 to the self-directed brokerage account.

1032 11. Distributions are not permissible directly from assets
1033 in the self-directed brokerage account. Assets must first be
1034 transferred to investment plan products. A distribution may be
1035 requested after the transfer is completed and all investment
1036 plan distribution requirements are met.

1037 12. The state board must notify members that:

1038 a. The state board is not responsible for managing the
1039 self-directed brokerage account beyond administrative
1040 requirements as established between the state board and the
1041 provider of the self-directed brokerage account.

1042 b. Investment alternatives available through the self-
1043 directed brokerage account have not been subjected to any
1044 selection process, are not monitored by the state board, require
1045 investment expertise to prudently buy, manage, or dispose of,
1046 and have a risk of substantial loss.

1047 c. The member is responsible for all administrative,
1048 investment, and trading fees associated with participating in
1049 the self-directed brokerage account.

1050 (10) EDUCATION COMPONENT.—

1051 (a) The state board, in coordination with the department,
1052 shall provide for an education component for eligible employees
1053 ~~system members~~ in a manner consistent with the provisions of
1054 this subsection ~~section~~. ~~The education component must be~~
1055 ~~available to eligible employees at least 90 days prior to the~~
1056 ~~beginning date of the election period for the employees of the~~
1057 ~~respective types of employers.~~



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1058 (b) The education component must provide system members
1059 with impartial and balanced information about plan choices for
1060 members initially enrolled before January 1, 2015. The education
1061 component must involve multimedia formats. Program comparisons
1062 must, to the greatest extent possible, be based upon the
1063 retirement income that different retirement programs may provide
1064 to the member. The state board shall monitor the performance of
1065 the contract to ensure that the program is conducted in
1066 accordance with the contract, applicable law, and the rules of
1067 the state board.

1068 (c) The state board, in coordination with the department,
1069 shall provide for an initial and ongoing transfer education
1070 component to provide system members initially enrolled before
1071 January 1, 2015, with information necessary to make informed
1072 plan choice decisions. The transfer education component must
1073 include, but is not limited to, information on:

1074 1. The amount of money available to a member to transfer to
1075 the defined contribution program.

1076 2. The features of and differences between the pension plan
1077 and the defined contribution program, both generally and
1078 specifically, as those differences may affect the member.

1079 3. The expected benefit available if the member were to
1080 retire under each of the retirement programs, based on
1081 appropriate alternative sets of assumptions.

1082 4. The rate of return from investments in the defined
1083 contribution program and the period of time over which such rate
1084 of return must be achieved to equal or exceed the expected
1085 monthly benefit payable to the member under the pension plan.

1086 5. The historical rates of return for the investment



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1087 alternatives available in the defined contribution programs.

1088 6. The benefits and historical rates of return on
1089 investments available in a typical deferred compensation plan or
1090 a typical plan under s. 403(b) of the Internal Revenue Code for
1091 which the employee may be eligible.

1092 7. The program choices available to employees of the State
1093 University System and the comparative benefits of each available
1094 program, if applicable.

1095 8. Payout options available in each of the retirement
1096 programs.

1097 ~~(h) Pursuant to subsection (8), all Florida Retirement~~
1098 ~~System employers have an obligation to regularly communicate the~~
1099 ~~existence of the two Florida Retirement System plans and the~~
1100 ~~plan choice in the natural course of administering their~~
1101 ~~personnel functions, using the educational materials supplied by~~
1102 ~~the state board and the Department of Management Services.~~

1103 (15) STATEMENT OF FIDUCIARY STANDARDS AND
1104 RESPONSIBILITIES.-

1105 (a) Investment of investment ~~defined contribution~~ plan
1106 assets shall be made for the sole interest and exclusive purpose
1107 of providing benefits to members and beneficiaries and defraying
1108 reasonable expenses of administering the plan. The program's
1109 assets shall be invested on behalf of the program members with
1110 the care, skill, and diligence that a prudent person acting in a
1111 like manner would undertake. The performance of the investment
1112 duties set forth in this paragraph shall comply with the
1113 fiduciary standards set forth in the Employee Retirement Income
1114 Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case
1115 of conflict with other provisions of law authorizing



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1116 investments, the investment and fiduciary standards set forth in
1117 this subsection shall prevail.

1118 (c) Subparagraph (8)(b)2. and paragraph (b) incorporate the
1119 federal law concept of participant control, established by
1120 regulations of the United States Department of Labor under s.
1121 404(c) of the Employee Retirement Income Security Act of 1974
1122 (ERISA). The purpose of this paragraph is to assist employers
1123 and the state board in maintaining compliance with s. 404(c),
1124 while avoiding unnecessary costs and eroding member benefits
1125 under the investment plan. Pursuant to 29 C.F.R. s. 2550.404a-
1126 5(d)(4) ~~2550.404e-1(b)(2)(i)(B)(1)(viii)~~, the state board or its
1127 designated agents shall deliver to members of the investment
1128 plan a copy of the prospectus most recently provided to the
1129 plan, ~~and, pursuant to 29 C.F.R. s. 2550.404e-~~
1130 ~~1(b)(2)(i)(B)(2)(ii)~~, ~~shall provide such members an opportunity~~
1131 ~~to obtain this information~~, except that:

1132 1. The requirement to deliver a prospectus shall be
1133 satisfied by delivery of a fund profile or summary profile that
1134 contains the information that would be included in a summary
1135 prospectus as described by Rule 498 under the Securities Act of
1136 1933, 17 C.F.R. s. 230.498. If the transaction fees, expense
1137 information or other information provided by a mutual fund in
1138 the prospectus does not reflect terms negotiated by the state
1139 board or its designated agents, the requirement is satisfied by
1140 delivery of a separate document described by Rule 498
1141 substituting accurate information; and

1142 2. Delivery shall be effected if delivery is through
1143 electronic means and the following standards are satisfied:

1144 a. Electronically-delivered documents are prepared and



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1145 provided consistent with style, format, and content requirements
1146 applicable to printed documents;

1147 b. Each member is provided timely and adequate notice of
1148 the documents that are to be delivered, and their significance,
1149 and of the member's right to obtain a paper copy of such
1150 documents free of charge;

1151 c. Members have adequate access to the electronic
1152 documents, at locations such as their worksites or public
1153 facilities, and have the ability to convert the documents to
1154 paper free of charge by the state board, and the board or its
1155 designated agents take appropriate and reasonable measures to
1156 ensure that the system for furnishing electronic documents
1157 results in actual receipt. Members have provided consent to
1158 receive information in electronic format, which consent may be
1159 revoked; and

1160 d. The state board, or its designated agent, actually
1161 provides paper copies of the documents free of charge, upon
1162 request.

1163 3. The state board is not required to deliver a prospectus
1164 or other information for the underlying investments available
1165 through the self-directed brokerage account authorized by
1166 paragraph (9)(h).

1167 Section 6. Subsection (3) of section 121.591, Florida
1168 Statutes, is amended to read:

1169 121.591 Payment of benefits.—Benefits may not be paid under
1170 the Florida Retirement System Investment Plan unless the member
1171 has terminated employment as provided in s. 121.021(39)(a) or is
1172 deceased and a proper application has been filed as prescribed
1173 by the state board or the department. Benefits, including



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1174 employee contributions, are not payable under the investment
1175 plan for employee hardships, unforeseeable emergencies, loans,
1176 medical expenses, educational expenses, purchase of a principal
1177 residence, payments necessary to prevent eviction or foreclosure
1178 on an employee's principal residence, or any other reason except
1179 a requested distribution for retirement, a mandatory de minimis
1180 distribution authorized by the administrator, or a required
1181 minimum distribution provided pursuant to the Internal Revenue
1182 Code. The state board or department, as appropriate, may cancel
1183 an application for retirement benefits if the member or
1184 beneficiary fails to timely provide the information and
1185 documents required by this chapter and the rules of the state
1186 board and department. In accordance with their respective
1187 responsibilities, the state board and the department shall adopt
1188 rules establishing procedures for application for retirement
1189 benefits and for the cancellation of such application if the
1190 required information or documents are not received. The state
1191 board and the department, as appropriate, are authorized to cash
1192 out a de minimis account of a member who has been terminated
1193 from Florida Retirement System covered employment for a minimum
1194 of 6 calendar months. A de minimis account is an account
1195 containing employer and employee contributions and accumulated
1196 earnings of not more than \$5,000 made under the provisions of
1197 this chapter. Such cash-out must be a complete lump-sum
1198 liquidation of the account balance, subject to the provisions of
1199 the Internal Revenue Code, or a lump-sum direct rollover
1200 distribution paid directly to the custodian of an eligible
1201 retirement plan, as defined by the Internal Revenue Code, on
1202 behalf of the member. Any nonvested accumulations and associated



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1203 service credit, including amounts transferred to the suspense
1204 account of the Florida Retirement System Investment Plan Trust
1205 Fund authorized under s. 121.4501(6), shall be forfeited upon
1206 payment of any vested benefit to a member or beneficiary, except
1207 for de minimis distributions or minimum required distributions
1208 as provided under this section. If any financial instrument
1209 issued for the payment of retirement benefits under this section
1210 is not presented for payment within 180 days after the last day
1211 of the month in which it was originally issued, the third-party
1212 administrator or other duly authorized agent of the state board
1213 shall cancel the instrument and credit the amount of the
1214 instrument to the suspense account of the Florida Retirement
1215 System Investment Plan Trust Fund authorized under s.
1216 121.4501(6). Any amounts transferred to the suspense account are
1217 payable upon a proper application, not to include earnings
1218 thereon, as provided in this section, within 10 years after the
1219 last day of the month in which the instrument was originally
1220 issued, after which time such amounts and any earnings
1221 attributable to employer contributions shall be forfeited. Any
1222 forfeited amounts are assets of the trust fund and are not
1223 subject to chapter 717.

1224 (3) DEATH BENEFITS.—Under the Florida Retirement System
1225 Investment Plan:

1226 (a) 1. Survivor benefits are payable in accordance with the
1227 following terms and conditions:

1228 ~~a.1.~~ To the extent vested, benefits are payable only to a
1229 member's beneficiary or beneficiaries as designated by the
1230 member as provided in s. 121.4501(20).

1231 ~~b.2.~~ Benefits shall be paid by the third-party



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1232 administrator or designated approved providers in accordance
1233 with the law, the contracts, and any applicable state board rule
1234 or policy.

1235 ~~c.3.~~ To receive benefits, the member must be deceased.

1236 ~~2.(b)~~ In the event of a member's death, all vested
1237 accumulations as described in s. 121.4501(6), less withholding
1238 taxes remitted to the Internal Revenue Service, shall be
1239 distributed, as provided in subparagraph 3. ~~paragraph (e)~~ or as
1240 described in s. 121.4501(20), as if the member retired on the
1241 date of death. No other death benefits are available for
1242 survivors of members, except for benefits, or coverage for
1243 benefits, as are otherwise provided by law or separately
1244 provided by the employer, at the employer's discretion.

1245 ~~3.(e)~~ Upon receipt by the third-party administrator of a
1246 properly executed application for distribution of benefits, the
1247 total accumulated benefit is payable by the third-party
1248 administrator to the member's surviving beneficiary or
1249 beneficiaries, as:

1250 ~~a.1.~~ A lump-sum distribution payable to the beneficiary or
1251 beneficiaries, or to the deceased member's estate;

1252 ~~b.2.~~ An eligible rollover distribution, if permitted, on
1253 behalf of the surviving spouse of a deceased member, whereby all
1254 accrued benefits, plus interest and investment earnings, are
1255 paid from the deceased member's account directly to the
1256 custodian of an eligible retirement plan, as described in s.
1257 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
1258 surviving spouse; or

1259 ~~c.3.~~ A partial lump-sum payment whereby a portion of the
1260 accrued benefit is paid to the deceased member's surviving



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1261 spouse or other designated beneficiaries, less withholding taxes
1262 remitted to the Internal Revenue Service, and the remaining
1263 amount is transferred directly to the custodian of an eligible
1264 retirement plan, if permitted, as described in s. 402(c)(8)(B)
1265 of the Internal Revenue Code, on behalf of the surviving spouse.
1266 The proportions must be specified by the member or the surviving
1267 beneficiary.

1268 (b) Each employer participating in the Florida Retirement
1269 System shall purchase a life insurance policy from a state term
1270 contract for each member of the Special Risk Class of the
1271 investment plan who is initially enrolled in the Florida
1272 Retirement System on or after January 1, 2015.

1273 1. The Department of Management Services shall procure a
1274 life insurance product on a state term contract with the
1275 following attributes:

1276 a. The benefit must be limited to Special Risk Class
1277 members who are killed in the line of duty.

1278 b. The benefit must be equal to 10 times the employee's
1279 annual salary at the time of death or \$500,000, whichever is
1280 greater.

1281 c. The benefit must provide for monthly benefit payments,
1282 including interest, to be paid to the designated beneficiary or
1283 beneficiaries over a 20-year period.

1284 d. The product must be guaranteed issue.

1285 e. The product must provide level premium rates for the
1286 term of the policy.

1287 f. Any administrative fees shall be the responsibility of
1288 the employer.

1289 2. Survivor benefits provided by the life insurance policy



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1290 are payable in addition to the survivor benefit provided under
1291 paragraph (a).

1292
1293 This subsection ~~paragraph~~ does not abrogate other applicable
1294 provisions of state or federal law providing for payment of
1295 death benefits.

1296 Section 7. Section 238.072, Florida Statutes, is amended to
1297 read:

1298 238.072 Special service provisions for extension
1299 personnel.—All state and county cooperative extension personnel
1300 holding appointments by the United States Department of
1301 Agriculture for extension work in agriculture and home economics
1302 in this state who are joint representatives of the University of
1303 Florida and the United States Department of Agriculture, as
1304 provided in s. 121.051(8) ~~121.051(7)~~, who are members of the
1305 Teachers' Retirement System, chapter 238, and who are prohibited
1306 from transferring to and participating in the Florida Retirement
1307 System, chapter 121, may retire with full benefits upon
1308 completion of 30 years of creditable service and shall be
1309 considered to have attained normal retirement age under this
1310 chapter, any law to the contrary notwithstanding. In order to
1311 comply with the provisions of s. 14, Art. X of the State
1312 Constitution, any liability accruing to the Florida Retirement
1313 System Trust Fund as a result of the provisions of this section
1314 shall be paid on an annual basis from the General Revenue Fund.

1315 Section 8. Subsection (11) of section 413.051, Florida
1316 Statutes, is amended to read:

1317 413.051 Eligible blind persons; operation of vending
1318 stands.—



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1319 (11) Effective July 1, 1996, blind licensees who remain
1320 members of the Florida Retirement System pursuant to s.
1321 121.051(7)(b)1. ~~121.051(6)(b)1.~~ shall pay any unappropriated
1322 retirement costs from their net profits or from program income.
1323 Within 30 days after the effective date of this act, each blind
1324 licensee who is eligible to maintain membership in the Florida
1325 Retirement System under s. 121.051(7)(b)1. ~~121.051(6)(b)1.~~, but
1326 who elects to withdraw from the system as provided in s.
1327 121.051(7)(b)3. ~~121.051(6)(b)3.~~, must, on or before July 31,
1328 1996, notify the Division of Blind Services and the Department
1329 of Management Services in writing of his or her election to
1330 withdraw. Failure to timely notify the divisions shall be deemed
1331 a decision to remain a compulsory member of the Florida
1332 Retirement System. However, if, at any time after July 1, 1996,
1333 sufficient funds are not paid by a blind licensee to cover the
1334 required contribution to the Florida Retirement System, that
1335 blind licensee shall become ineligible to participate in the
1336 Florida Retirement System on the last day of the first month for
1337 which no contribution is made or the amount contributed is
1338 insufficient to cover the required contribution. For any blind
1339 licensee who becomes ineligible to participate in the Florida
1340 Retirement System as described in this subsection, no creditable
1341 service shall be earned under the Florida Retirement System for
1342 any period following the month that retirement contributions
1343 ceased to be reported. However, any such person may participate
1344 in the Florida Retirement System in the future if employed by a
1345 participating employer in a covered position.

1346 Section 9. Pension Reform Study Committee.-

1347 (1) The Pension Reform Study Committee is created for the



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1348 purpose of reviewing, analyzing, and evaluating the
1349 sustainability of the Florida Retirement System and to recommend
1350 reforms to maintain and enhance the long-term viability and
1351 sustainability of the system.

1352 (2) The study committee shall be composed of six members:

1353 (a) Three members of the Senate appointed by the President
1354 of the Senate.

1355 (b) Three members of the House of Representatives appointed
1356 by the Speaker of the House of Representatives.

1357 (3) Members of the study committee must be appointed by
1358 July 31, 2013. By August 31, 2013, the study committee shall
1359 meet to establish procedures for the conduct of its business and
1360 to elect a chair and vice chair. The study committee shall meet
1361 at the call of the chair. A majority of the members constitutes
1362 a quorum, and a quorum is necessary for the purpose of voting on
1363 any action or recommendation of the study committee. All
1364 meetings shall be held in Tallahassee, unless otherwise decided
1365 by the study committee; however, no more than two such meetings
1366 may be held in other locations for the purpose of taking public
1367 testimony.

1368 (4) The President of the Senate and the Speaker of the
1369 House of Representatives shall designate legislative staff
1370 knowledgeable in public pensions and the Florida Retirement
1371 System to assist the study committee and provide all necessary
1372 data collection, analysis, research, and support services.

1373 (5) Study committee members shall serve without
1374 compensation but are entitled to be reimbursed for per diem and
1375 travel expenses as provided under s. 112.061, Florida Statutes.

1376 (6) In reviewing, analyzing, and evaluating the



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1377 sustainability of the Florida Retirement System, and
1378 recommending reforms to maintain and enhance the long-term
1379 viability and sustainability of the system, the study committee
1380 shall, at a minimum, consider the funding structure of the
1381 system, system funding levels, benefits provided, and the
1382 benefits of reforming the system structure, which must include
1383 the benefits of providing a hybrid or cash-balance option in
1384 lieu of or in addition to the current plan choices.

1385 (7) The study committee shall submit a final report of its
1386 recommendations to the President of the Senate and the Speaker
1387 of the House of Representatives by January 1, 2014.

1388 (8) The study committee is terminated June 30, 2014.

1389 Section 10. (1) Effective January 1, 2015, in order to fund
1390 the benefit changes provided in this act, the required employer
1391 contribution rates for the unfunded actuarial liability of the
1392 Florida Retirement System established in section 121.71(5),
1393 Florida Statutes, shall be adjusted as follows:

1394 (a) Elected Officers' Class.—Legislators, the Governor, the
1395 Lieutenant Governor, Cabinet Officers, State Attorneys, and
1396 Public Defenders shall be increased by 0.02 percentage points.

1397 (b) Elected Officers' Class.—County Elected Officers shall
1398 be increased by 0.02 percentage points.

1399 (c) Senior Management Service Class.—The Senior Management
1400 Service Class shall be increased by 0.01 percentage points.

1401 (2) The adjustments provided in subsection (1) shall be in
1402 addition to all other changes to such contribution rates which
1403 may be enacted into law to take effect on July 1, 2014, and July
1404 1, 2015. The Division of Law Revision and Information is
1405 requested to adjust accordingly the contribution rates provided



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1406 in section 121.71, Florida Statutes.

1407 Section 11. Except for the amendments made by this act to
1408 ss. 121.051, 121.052, and 121.055, Florida Statutes, which apply
1409 only to members of the State Community College System Optional
1410 Retirement Program, Elected Officers' Class, and the Senior
1411 Management Service Class, respectively, this act does not modify
1412 or limit any retirement benefit or plan choice currently
1413 available to members who first enrolled in the Florida
1414 Retirement System before January 1, 2015.

1415 Section 12. The Legislature finds that a proper and
1416 legitimate state purpose is served when employees and retirees
1417 of the state and its political subdivisions, and the dependents,
1418 survivors, and beneficiaries of such employees and retirees, are
1419 extended the basic protections afforded by governmental
1420 retirement systems. These persons must be provided benefits that
1421 are fair and adequate and that are managed, administered, and
1422 funded in an actuarially sound manner, as required by s. 14,
1423 Article X of the State Constitution and part VII of chapter 112,
1424 Florida Statutes. Therefore, the Legislature determines and
1425 declares that this act fulfills an important state interest.

1426 Section 13. (1) Effective upon this act becoming a law, the
1427 State Board of Administration and the Department of Management
1428 Services shall request, as soon as practicable, a determination
1429 letter from the United States Internal Revenue Service. If the
1430 Internal Revenue Service refuses to act upon a request for a
1431 determination letter, then a legal opinion from a qualified tax
1432 attorney or firm may be substituted for such letter.

1433 (2) If the board or the department receives notification
1434 from the United States Internal Revenue Service that this act or



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1435 any portion of this act will cause the Florida Retirement
1436 System, or a portion thereof, to be disqualified for tax
1437 purposes under the Internal Revenue Code, then the portion that
1438 will cause the disqualification does not apply. Upon such
1439 notice, the state board and the department shall notify the
1440 presiding officers of the Legislature.

1441 Section 14. Except as otherwise expressly provided in this
1442 act and except for this section, which shall take effect upon
1443 this act becoming a law, this act shall take effect July 1,
1444 2013.

1445
1446 ===== T I T L E A M E N D M E N T =====

1447 And the title is amended as follows:

1448 Delete everything before the enacting clause
1449 and insert:

1450 A bill to be entitled
1451 An act relating to the Florida Retirement System;
1452 amending s. 121.051, F.S.; limiting the ability of
1453 members of an optional retirement program to transfer
1454 to the Florida Retirement System; providing for
1455 compulsory membership in the Florida Retirement System
1456 Investment Plan for employees initially enrolled after
1457 a specified date; authorizing certain employees to
1458 participate in the investment plan; amending s.
1459 121.052, F.S.; prohibiting members of the Elected
1460 Officers' Class from joining the Senior Management
1461 Service Class after a specified date; amending s.
1462 121.055, F.S.; closing the Senior Management Service
1463 Optional Annuity Program to new members after a



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1464 specified date; prohibiting an elected official
1465 eligible for membership in the Elected Officers' Class
1466 from enrolling in the Senior Management Service Class
1467 or in the Senior Management Service Optional Annuity
1468 Program; closing the Senior Management Service
1469 Optional Annuity Program to new members after a
1470 specified date; amending s. 121.35, F.S.; providing
1471 that certain participants in the optional retirement
1472 program for the State University System have a choice
1473 between the optional retirement program and the
1474 Florida Retirement System Investment Plan; providing
1475 for compulsory membership in the investment plan for
1476 certain employees; amending s. 121.4501, F.S.;
1477 requiring certain employees initially enrolled in the
1478 Florida Retirement System on or after a specified date
1479 to be compulsory members of the investment plan;
1480 providing for the transfer of certain contributions;
1481 revising a provision relating to acknowledgment of an
1482 employee's election to participate in the investment
1483 plan; requiring the State Board of Administration to
1484 develop investment products to be offered in the
1485 investment plan; requiring the State Board of
1486 Administration to provide a self-directed brokerage
1487 account as an investment option; requiring the state
1488 board to contract with a provider to provide a self-
1489 directed brokerage account investment option;
1490 providing self-directed brokerage account
1491 requirements; revising the education component;
1492 deleting the obligation of system employers to



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1493 communicate the existence of both retirement plans;
1494 providing the state board and the provider of the
1495 self-directed brokerage account investment option with
1496 certain responsibilities; providing that the state
1497 board is not required to deliver certain information
1498 regarding the self-directed brokerage account; making
1499 conforming changes; removing unnecessary language;
1500 amending s. 121.591, F.S.; providing an additional
1501 death benefit to specified members of the Special Risk
1502 Class; amending ss. 238.072 and 413.051, F.S.;
1503 conforming cross-references; creating a Pension Reform
1504 Study Committee to evaluate and provide
1505 recommendations relating to the Florida Retirement
1506 System; providing for membership; requiring a report
1507 to the Legislature; providing for termination;
1508 adjusting the required employer contribution rates for
1509 the unfunded actuarial liability of the Florida
1510 Retirement System for select classes; providing a
1511 directive to the Division of Law Revision and
1512 Information; providing that the act does not modify or
1513 limit benefits available to current members except as
1514 specified; providing that the act fulfills an
1515 important state interest; requiring the State Board of
1516 Administration and the Department of Management
1517 Services to request a determination letter from the
1518 Internal Revenue Service; providing effective dates.