

HB 7011

2013

1 A bill to be entitled
2 An act relating to the Florida Retirement System;
3 amending s. 121.051, F.S.; limiting the ability of
4 members of an optional retirement program to transfer
5 to the Florida Retirement System; providing for
6 compulsory membership in the Florida Retirement System
7 Investment Plan for employees initially enrolled after
8 a specified date; authorizing certain employees to
9 participate in the investment plan; amending s.
10 121.052, F.S.; prohibiting members of the Elected
11 Officers' Class from joining the Senior Management
12 Service Class after a specified date; amending s.
13 121.055, F.S.; closing the Senior Management Service
14 Optional Annuity Program to new members after a
15 specified date; prohibiting an elected official
16 eligible for membership in the Elected Officers' Class
17 from enrolling in the Senior Management Service Class
18 or in the Senior Management Service Optional Annuity
19 Program; closing the Senior Management Service
20 Optional Annuity Program to new members after a
21 specified date; amending s. 121.35, F.S.; providing
22 that certain participants in the optional retirement
23 program for the State University System have a choice
24 between the optional retirement program and the
25 Florida Retirement System Investment Plan; providing
26 for compulsory membership in the investment plan for
27 certain employees; amending s. 121.4501, F.S.;

28 requiring certain employees initially enrolled in the

HB 7011

2013

29 Florida Retirement System on or after a specified date
30 to be compulsory members of the investment plan;
31 providing for the transfer of certain contributions;
32 revising a provision relating to acknowledgment of an
33 employee's election to participate in the investment
34 plan; requiring the State Board of Administration to
35 develop investment products to be offered in the
36 investment plan; requiring the State Board of
37 Administration to provide a self-directed brokerage
38 account as an investment option; requiring the state
39 board to contract with a provider to provide a self-
40 directed brokerage account investment option;
41 providing self-directed brokerage account
42 requirements; revising the education component;
43 deleting the obligation of system employers to
44 communicate the existence of both retirement plans;
45 providing the state board and the provider of the
46 self-directed brokerage account investment option with
47 certain responsibilities; providing that the state
48 board is not required to deliver certain information
49 regarding the self-directed brokerage account; making
50 conforming changes; removing unnecessary language;
51 providing that certain investment plan members are not
52 entitled to disability benefits; amending s. 121.591,
53 F.S.; limiting disability benefits to eligible
54 members; amending s. 121.71, F.S.; revising the
55 required employer retirement contribution rates for
56 members of each membership class and subclass of the

57 Florida Retirement System; amending ss. 238.072 and
 58 413.051, F.S.; conforming cross-references; providing
 59 that the act fulfills an important state interest;
 60 requiring the State Board of Administration and the
 61 Department of Management Services to request a
 62 determination letter from the Internal Revenue
 63 Service; providing effective dates.
 64

65 Be It Enacted by the Legislature of the State of Florida:
 66

67 Section 1. Paragraph (c) of subsection (2) of section
 68 121.051, Florida Statutes, is amended, subsections (3) through
 69 (9) of that section are renumbered as subsections (4) through
 70 (10), respectively, and a new subsection (3) is added to that
 71 section, to read:

72 121.051 Participation in the system.—

73 (2) OPTIONAL PARTICIPATION.—

74 (c) Employees of public community colleges or charter
 75 technical career centers sponsored by public community colleges,
 76 designated in s. 1000.21(3), who are members of the Regular
 77 Class of the Florida Retirement System and who comply with the
 78 criteria set forth in this paragraph and s. 1012.875 may, in
 79 lieu of participating in the Florida Retirement System, elect to
 80 withdraw from the system altogether and participate in the State
 81 Community College System Optional Retirement Program provided by
 82 the employing agency under s. 1012.875.

83 1.a. Through June 30, 2001, the cost to the employer for
 84 benefits under the optional retirement program equals the normal

HB 7011

2013

85 | cost portion of the employer retirement contribution which would
86 | be required if the employee were a member of the pension plan's
87 | Regular Class, plus the portion of the contribution rate
88 | required by s. 112.363(8) which would otherwise be assigned to
89 | the Retiree Health Insurance Subsidy Trust Fund.

90 | b. Effective July 1, 2001, through June 30, 2011, each
91 | employer shall contribute on behalf of each member of the
92 | optional program an amount equal to 10.43 percent of the
93 | employee's gross monthly compensation. The employer shall deduct
94 | an amount for the administration of the program.

95 | c. Effective July 1, 2011, through June 30, 2012, each
96 | member shall contribute an amount equal to the employee
97 | contribution required under s. 121.71(3). The employer shall
98 | contribute on behalf of each program member an amount equal to
99 | the difference between 10.43 percent of the employee's gross
100 | monthly compensation and the employee's required contribution
101 | based on the employee's gross monthly compensation.

102 | d. Effective July 1, 2012, each member shall contribute an
103 | amount equal to the employee contribution required under s.
104 | 121.71(3). The employer shall contribute on behalf of each
105 | program member an amount equal to the difference between 8.15
106 | percent of the employee's gross monthly compensation and the
107 | employee's required contribution based on the employee's gross
108 | monthly compensation.

109 | e. The employer shall contribute an additional amount to
110 | the Florida Retirement System Trust Fund equal to the unfunded
111 | actuarial accrued liability portion of the Regular Class
112 | contribution rate.

HB 7011

2013

113 2. The decision to participate in the optional retirement
114 program is irrevocable as long as the employee holds a position
115 eligible for participation, except as provided in subparagraph
116 3. Any service creditable under the Florida Retirement System is
117 retained after the member withdraws from the system; however,
118 additional service credit in the system may not be earned while
119 a member of the optional retirement program.

120 3. Effective July 1, 2003, through December 31, 2013, an
121 employee who has elected to participate in the optional
122 retirement program shall have one opportunity, at the employee's
123 discretion, to transfer from the optional retirement program to
124 the pension plan of the Florida Retirement System or to the
125 investment plan established under part II of this chapter,
126 subject to the terms of the applicable optional retirement
127 program contracts. Except as provided in subsection (3), an
128 employee participating in the optional retirement program on or
129 after January 1, 2014, is not eligible to transfer to the
130 Florida Retirement System.

131 a. If the employee chooses to move to the investment plan,
132 any contributions, interest, and earnings creditable to the
133 employee under the optional retirement program are retained by
134 the employee in the optional retirement program, and the
135 applicable provisions of s. 121.4501(4) govern the election.

136 b. If the employee chooses to move to the pension plan of
137 the Florida Retirement System, the employee shall receive
138 service credit equal to his or her years of service under the
139 optional retirement program.

140 (I) The cost for such credit is the amount representing

HB 7011

2013

141 the present value of the employee's accumulated benefit
142 obligation for the affected period of service. The cost shall be
143 calculated as if the benefit commencement occurs on the first
144 date the employee becomes eligible for unreduced benefits, using
145 the discount rate and other relevant actuarial assumptions that
146 were used to value the Florida Retirement System Pension Plan
147 liabilities in the most recent actuarial valuation. The
148 calculation must include any service already maintained under
149 the pension plan in addition to the years under the optional
150 retirement program. The present value of any service already
151 maintained must be applied as a credit to total cost resulting
152 from the calculation. The division must ensure that the transfer
153 sum is prepared using a formula and methodology certified by an
154 enrolled actuary.

155 (II) The employee must transfer from his or her optional
156 retirement program account and from other employee moneys as
157 necessary, a sum representing the present value of the
158 employee's accumulated benefit obligation immediately following
159 the time of such movement, determined assuming that attained
160 service equals the sum of service in the pension plan and
161 service in the optional retirement program.

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

165 a. The employee is otherwise eligible for membership or
166 renewed membership in the Regular Class of the Florida
167 Retirement System, as provided in s. 121.021(11) and (12) or s.
168 121.122.

HB 7011

2013

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

172 (I) Instructional; or

173 (II) Executive Management, Instructional Management, or
174 Institutional Management and the community college determines
175 that recruiting to fill a vacancy in the position is to be
176 conducted in the national or regional market, and the duties and
177 responsibilities of the position include the formulation,
178 interpretation, or implementation of policies, or the
179 performance of functions that are unique or specialized within
180 higher education and that frequently support the mission of the
181 community college.

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

185 5. Members of the program are subject to the same
186 reemployment limitations, renewed membership provisions, and
187 forfeiture provisions applicable to regular members of the
188 Florida Retirement System under ss. 121.091(9), 121.122, and
189 121.091(5), respectively. A member who receives a program
190 distribution funded by employer and required employee
191 contributions is deemed to be retired from a state-administered
192 retirement system if the member is subsequently employed with an
193 employer that participates in the Florida Retirement System.

194 6. Eligible community college employees are compulsory
195 members of the Florida Retirement System until, pursuant to s.
196 1012.875, a written election to withdraw from the system and

HB 7011

2013

197 participate in the optional retirement program is filed with the
198 program administrator and received by the division.

199 a. A community college employee whose program eligibility
200 results from initial employment shall be enrolled in the
201 optional retirement program retroactive to the first day of
202 eligible employment. The employer and employee retirement
203 contributions paid through the month of the employee plan change
204 shall be transferred to the community college to the employee's
205 optional program account, and, effective the first day of the
206 next month, the employer shall pay the applicable contributions
207 based upon subparagraph 1.

208 b. A community college employee whose program eligibility
209 is due to the subsequent designation of the employee's position
210 as one of those specified in subparagraph 4., or due to the
211 employee's appointment, promotion, transfer, or reclassification
212 to a position specified in subparagraph 4., must be enrolled in
213 the program on the first day of the first full calendar month
214 that such change in status becomes effective. The employer and
215 employee retirement contributions paid from the effective date
216 through the month of the employee plan change must be
217 transferred to the community college to the employee's optional
218 program account, and, effective the first day of the next month,
219 the employer shall pay the applicable contributions based upon
220 subparagraph 1.

221 7. Effective July 1, 2003, through December 31, 2008, any
222 member of the optional retirement program who has service credit
223 in the pension plan of the Florida Retirement System for the
224 period between his or her first eligibility to transfer from the

HB 7011

2013

225 pension plan to the optional retirement program and the actual
226 date of transfer may, during employment, transfer to the
227 optional retirement program a sum representing the present value
228 of the accumulated benefit obligation under the defined benefit
229 retirement program for the period of service credit. Upon
230 transfer, all service credit previously earned under the pension
231 plan during this period is nullified for purposes of entitlement
232 to a future benefit under the pension plan.

233 (3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.-

234 (a) All eligible employees, except those eligible to
235 withdraw from the system under s. 121.052(3)(d) or s.
236 121.055(1)(b)2., or those eligible for optional retirement
237 programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
238 initially enrolled on or after January 1, 2014, are compulsory
239 members of the investment plan, and membership in the pension
240 plan is not permitted. Employees initially enrolled on or after
241 January 1, 2014, are not eligible to use the election
242 opportunity specified in s. 121.4501(4)(e).

243 (b) Employees eligible to withdraw from the system under
244 s. 121.052(3)(d) or s. 121.055(1)(b)2., may choose to withdraw
245 from the system or to participate in the investment plan as
246 provided in those sections. Employees eligible for optional
247 retirement programs under s. 121.051(2)(c) or s. 121.35, may
248 choose to participate in the optional retirement program or the
249 investment plan as provided in those sections. Eligible
250 employees required to participate in the optional retirement
251 program under s. 121.35, pursuant to s. 121.051(1)(a), must
252 participate in the investment plan when employed in a position

HB 7011

2013

253 | not eligible for the optional retirement program.

254 | Section 2. Paragraph (c) of subsection (3) of section
255 | 121.052, Florida Statutes, is amended to read:

256 | 121.052 Membership class of elected officers.—

257 | (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective
258 | July 1, 1990, participation in the Elected Officers' Class shall
259 | be compulsory for elected officers listed in paragraphs (2)(a)-
260 | (d) and (f) assuming office on or after said date, unless the
261 | elected officer elects membership in another class or withdraws
262 | from the Florida Retirement System as provided in paragraphs
263 | (3)(a)-(d):

264 | (c) Before January 1, 2014, any elected officer may,
265 | within 6 months after assuming office, or within 6 months after
266 | this act becomes a law for serving elected officers, elect
267 | membership in the Senior Management Service Class as provided in
268 | s. 121.055 in lieu of membership in the Elected Officers' Class.
269 | Any such election made by a county elected officer shall have no
270 | effect upon the statutory limit on the number of nonelective
271 | full-time positions that may be designated by a local agency
272 | employer for inclusion in the Senior Management Service Class
273 | under s. 121.055(1)(b)1.

274 | Section 3. Paragraph (f) of subsection (1) and paragraph
275 | (c) of subsection (6) of section 121.055, Florida Statutes, are
276 | amended to read:

277 | 121.055 Senior Management Service Class.—There is hereby
278 | established a separate class of membership within the Florida
279 | Retirement System to be known as the "Senior Management Service
280 | Class," which shall become effective February 1, 1987.

281 (1)

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

283 1. Except as provided in subparagraphs ~~subparagraph~~ 3. and

284 4., an elected state officer eligible for membership in the

285 Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who

286 elects membership in the Senior Management Service Class under

287 s. 121.052(3)(c) may, within 6 months after assuming office or

288 within 6 months after this act becomes a law for serving elected

289 state officers, elect to participate in the Senior Management

290 Service Optional Annuity Program, as provided in subsection (6),

291 in lieu of membership in the Senior Management Service Class.

292 2. Except as provided in subparagraphs ~~subparagraph~~ 3. and

293 4., an elected officer of a local agency employer eligible for

294 membership in the Elected Officers' Class under s. 121.052(2)(d)

295 who elects membership in the Senior Management Service Class

296 under s. 121.052(3)(c) may, within 6 months after assuming

297 office, or within 6 months after this act becomes a law for

298 serving elected officers of a local agency employer, elect to

299 withdraw from the Florida Retirement System, as provided in

300 subparagraph (b)2., in lieu of membership in the Senior

301 Management Service Class.

302 3. A retiree of a state-administered retirement system who

303 is initially reemployed in a regularly established position on

304 or after July 1, 2010, as an elected official eligible for the

305 Elected Officers' Class may not be enrolled in renewed

306 membership in the Senior Management Service Class or in the

307 Senior Management Service Optional Annuity Program as provided

308 in subsection (6), and may not withdraw from the Florida

HB 7011

2013

309 Retirement System as a renewed member as provided in
310 subparagraph (b)2., as applicable, in lieu of membership in the
311 Senior Management Service Class.

312 4. On or after January 1, 2014, an elected official
313 eligible for membership in the Elected Officers' Class may not
314 be enrolled in the Senior Management Service Class or in the
315 Senior Management Service Optional Annuity Program as provided
316 in subsection (6).

317 (6)

318 (c) Participation.—

319 1. An eligible employee who is employed on or before
320 February 1, 1987, may elect to participate in the optional
321 annuity program in lieu of participating in the Senior
322 Management Service Class. Such election must be made in writing
323 and filed with the department and the personnel officer of the
324 employer on or before May 1, 1987. An eligible employee who is
325 employed on or before February 1, 1987, and who fails to make an
326 election to participate in the optional annuity program by May
327 1, 1987, shall be deemed to have elected membership in the
328 Senior Management Service Class.

329 2. Except as provided in subparagraph 6., an employee who
330 becomes eligible to participate in the optional annuity program
331 by reason of initial employment commencing after February 1,
332 1987, may, within 90 days after the date of commencing
333 employment, elect to participate in the optional annuity
334 program. Such election must be made in writing and filed with
335 the personnel officer of the employer. An eligible employee who
336 does not within 90 days after commencing employment elect to

HB 7011

2013

337 participate in the optional annuity program shall be deemed to
338 have elected membership in the Senior Management Service Class.

339 3. A person who is appointed to a position in the Senior
340 Management Service Class and who is a member of an existing
341 retirement system or the Special Risk or Special Risk
342 Administrative Support Classes of the Florida Retirement System
343 may elect to remain in such system or class in lieu of
344 participating in the Senior Management Service Class or optional
345 annuity program. Such election must be made in writing and filed
346 with the department and the personnel officer of the employer
347 within 90 days after such appointment. An eligible employee who
348 fails to make an election to participate in the existing system,
349 the Special Risk Class of the Florida Retirement System, the
350 Special Risk Administrative Support Class of the Florida
351 Retirement System, or the optional annuity program shall be
352 deemed to have elected membership in the Senior Management
353 Service Class.

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

359 5. Effective from July 1, 2002, through September 30,
360 2002, an active employee in a regularly established position who
361 has elected to participate in the Senior Management Service
362 Optional Annuity Program has one opportunity to choose to move
363 from the Senior Management Service Optional Annuity Program to
364 the Florida Retirement System Pension Plan.

HB 7011

2013

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

371 b. The employee shall receive service credit under the
372 pension plan equal to his or her years of service under the
373 Senior Management Service Optional Annuity Program. The cost for
374 such credit is the amount representing the present value of that
375 employee's accumulated benefit obligation for the affected
376 period of service.

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

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

389 7. Effective January 1, 2014, the Senior Management
390 Service Optional Annuity Program is closed to new members.
391 Members enrolled in the Senior Management Service Optional
392 Annuity Program before January 1, 2014, may retain their

HB 7011

2013

393 | membership in the annuity program.

394 | Section 4. Paragraph (c) of subsection (3) of section
395 | 121.35, Florida Statutes, is amended to read:

396 | 121.35 Optional retirement program for the State
397 | University System.—

398 | (3) ELECTION OF OPTIONAL PROGRAM.—

399 | (c) Any employee who becomes eligible to participate in
400 | the optional retirement program on or after January 1, 1993,
401 | shall be a compulsory participant of the program unless such
402 | employee elects membership in the Florida Retirement System.
403 | Such election shall be made in writing and filed with the
404 | personnel officer of the employer. Any eligible employee who
405 | fails to make such election within the prescribed time period
406 | shall be deemed to have elected to participate in the optional
407 | retirement program.

408 | 1. Any employee whose optional retirement program
409 | eligibility results from initial employment shall be enrolled in
410 | the program at the commencement of employment. If, within 90
411 | days after commencement of employment, the employee elects
412 | membership in the Florida Retirement System, such membership
413 | shall be effective retroactive to the date of commencement of
414 | employment as provided in s. 121.4501(4).

415 | 2. Any employee whose optional retirement program
416 | eligibility results from a change in status due to the
417 | subsequent designation of the employee's position as one of
418 | those specified in paragraph (2) (a) or due to the employee's
419 | appointment, promotion, transfer, or reclassification to a
420 | position specified in paragraph (2) (a) shall be enrolled in the

HB 7011

2013

421 optional retirement program upon such change in status and shall
422 be notified by the employer of such action. If, within 90 days
423 after the date of such notification, the employee elects to
424 retain membership in the Florida Retirement System, such
425 continuation of membership shall be retroactive to the date of
426 the change in status.

427 3. Notwithstanding subparagraphs 1. and 2. ~~the provisions~~
428 ~~of this paragraph~~, effective July 1, 1997, any employee who is
429 eligible to participate in the Optional Retirement Program and
430 who fails to execute a contract with one of the approved
431 companies and to notify the department in writing as provided in
432 subsection (4) within 90 days after the date of eligibility
433 shall be deemed to have elected membership in the Florida
434 Retirement System, except as provided in s. 121.051(1)(a). This
435 provision shall also apply to any employee who terminates
436 employment in an eligible position before executing the required
437 investment annuity contract and notifying the department. Such
438 membership shall be retroactive to the date of eligibility, and
439 all appropriate contributions shall be transferred to the
440 Florida Retirement System Trust Fund and the Health Insurance
441 Subsidy Trust Fund. If a member is initially enrolled on or
442 after January 1, 2014, the member is deemed to have elected
443 membership in the Florida Retirement System Investment Plan and
444 such membership shall be retroactive to the date of eligibility.
445 All contributions required under s. 121.72, shall be transferred
446 to a default fund in the investment plan as provided in s.
447 121.4501(4)(f), and the Health Insurance Subsidy Trust Fund.

448 Section 5. Subsections (1) and (4), paragraph (c) of

HB 7011

2013

449 subsection (5), subsection (8), paragraph (a) of subsection (9),
450 paragraphs (a), (b), (c), and (h) of subsection (10), paragraphs
451 (a) and (c) of subsection (15), and subsection (16) of section
452 121.4501, Florida Statutes, are amended, and paragraph (h) is
453 added to subsection (9) of that section, to read:

454 121.4501 Florida Retirement System Investment Plan.—

455 (1) The Trustees of the State Board of Administration
456 shall establish a defined contribution program called the
457 "Florida Retirement System Investment Plan" or "investment plan"
458 for members of the Florida Retirement System under which
459 retirement benefits will be provided for eligible employees
460 initially enrolled before January 1, 2014, who elect to
461 participate in the program, and for all eligible employees
462 initially enrolled on or after January 1, 2014, who shall be
463 compulsory members unless otherwise eligible to withdraw from
464 the system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or to
465 participate in an optional retirement program under s.
466 121.051(1)(a), s. 121.051(2)(c), or s. 121.35. The retirement
467 benefits shall be provided through member-directed investments,
468 in accordance with s. 401(a) of the Internal Revenue Code and
469 related regulations. The employer and employee shall make
470 contributions, as provided in this section and ss. 121.571 and
471 121.71, to the Florida Retirement System Investment Plan Trust
472 Fund toward the funding of benefits.

473 (4) PARTICIPATION; ENROLLMENT.—

474 (a)1. Effective June 1, 2002, through February 28, 2003, a
475 90-day election period is provided to each eligible employee
476 participating in the Florida Retirement System, preceded by a

HB 7011

2013

477 90-day education period, permitting each eligible employee to
478 elect membership in the investment plan, and an employee who
479 fails to elect the investment plan during the election period
480 remains in the pension plan. An eligible employee employed in a
481 regularly established position during the election period is
482 granted the option to make one subsequent election, as provided
483 in paragraph (e). With respect to an eligible employee who does
484 not participate in the initial election period or who is
485 initially employed in a regularly established position after the
486 close of the initial election period but before January 1, 2014,
487 on June 1, 2002, by a state employer:

488 ~~a. Any such employee may elect to participate in the~~
489 ~~investment plan in lieu of retaining his or her membership in~~
490 ~~the pension plan. The election must be made in writing or by~~
491 ~~electronic means and must be filed with the third party~~
492 ~~administrator by August 31, 2002, or, in the case of an active~~
493 ~~employee who is on a leave of absence on April 1, 2002, by the~~
494 ~~last business day of the 5th month following the month the leave~~
495 ~~of absence concludes. This election is irrevocable, except as~~
496 ~~provided in paragraph (g). Upon making such election, the~~
497 ~~employee shall be enrolled as a member of the investment plan,~~
498 ~~the employee's membership in the Florida Retirement System is~~
499 ~~governed by the provisions of this part, and the employee's~~
500 ~~membership in the pension plan terminates. The employee's~~
501 ~~enrollment in the investment plan is effective the first day of~~
502 ~~the month for which a full month's employer contribution is made~~
503 ~~to the investment plan.~~

504 ~~b. Any such employee who fails to elect to participate in~~

HB 7011

2013

505 | ~~the investment plan within the prescribed time period is deemed~~
506 | ~~to have elected to retain membership in the pension plan, and~~
507 | ~~the employee's option to elect to participate in the investment~~
508 | ~~plan is forfeited.~~

509 | ~~2. With respect to employees who become eligible to~~
510 | ~~participate in the investment plan by reason of employment in a~~
511 | ~~regularly established position with a state employer commencing~~
512 | ~~after April 1, 2002:~~

513 | ~~a.~~ Any such employee shall, by default, be enrolled in the
514 | pension plan at the commencement of employment, and may, by the
515 | last business day of the 5th month following the employee's
516 | month of hire, elect to participate in the investment plan. The
517 | employee's election must be made in writing or by electronic
518 | means and must be filed with the third-party administrator. The
519 | election to participate in the investment plan is irrevocable,
520 | except as provided in paragraph (e) ~~(g)~~.

521 | ~~a.b.~~ If the employee files such election within the
522 | prescribed time period, enrollment in the investment plan is
523 | effective on the first day of employment. The retirement
524 | contributions paid through the month of the employee plan change
525 | shall be transferred to the investment program, and, effective
526 | the first day of the next month, the employer and employee must
527 | pay the applicable contributions based on the employee
528 | membership class in the program.

529 | ~~b.e.~~ An employee who fails to elect to participate in the
530 | investment plan within the prescribed time period is deemed to
531 | have elected to retain membership in the pension plan, and the
532 | employee's option to elect to participate in the investment plan

HB 7011

2013

533 is forfeited.

534 ~~2.3-~~ With respect to employees who become eligible to
535 participate in the investment plan pursuant to s.
536 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
537 participate in the investment plan in lieu of retaining his or
538 her membership in the State Community College System Optional
539 Retirement Program or the State University System Optional
540 Retirement Program. The election must be made in writing or by
541 electronic means and must be filed with the third-party
542 administrator. This election is irrevocable, except as provided
543 in paragraph (e) ~~(g)~~. Upon making such election, the employee
544 shall be enrolled as a member in the investment plan, the
545 employee's membership in the Florida Retirement System is
546 governed by the provisions of this part, and the employee's
547 participation in the State Community College System Optional
548 Retirement Program or the State University System Optional
549 Retirement Program terminates. The employee's enrollment in the
550 investment plan is effective on the first day of the month for
551 which a full month's employer and employee contribution is made
552 to the investment plan.

553 ~~4. For purposes of this paragraph, "state employer" means~~
554 ~~any agency, board, branch, commission, community college,~~
555 ~~department, institution, institution of higher education, or~~
556 ~~water management district of the state, which participates in~~
557 ~~the Florida Retirement System for the benefit of certain~~
558 ~~employees.~~

559 ~~(b)1. With respect to an eligible employee who is employed~~
560 ~~in a regularly established position on September 1, 2002, by a~~

HB 7011

2013

561 ~~district school board employer:~~

562 ~~a. Any such employee may elect to participate in the~~
563 ~~investment plan in lieu of retaining his or her membership in~~
564 ~~the pension plan. The election must be made in writing or by~~
565 ~~electronic means and must be filed with the third-party~~
566 ~~administrator by November 30, or, in the case of an active~~
567 ~~employee who is on a leave of absence on July 1, 2002, by the~~
568 ~~last business day of the 5th month following the month the leave~~
569 ~~of absence concludes. This election is irrevocable, except as~~
570 ~~provided in paragraph (g). Upon making such election, the~~
571 ~~employee shall be enrolled as a member of the investment plan,~~
572 ~~the employee's membership in the Florida Retirement System is~~
573 ~~governed by the provisions of this part, and the employee's~~
574 ~~membership in the pension plan terminates. The employee's~~
575 ~~enrollment in the investment plan is effective the first day of~~
576 ~~the month for which a full month's employer contribution is made~~
577 ~~to the investment program.~~

578 ~~b. Any such employee who fails to elect to participate in~~
579 ~~the investment plan within the prescribed time period is deemed~~
580 ~~to have elected to retain membership in the pension plan, and~~
581 ~~the employee's option to elect to participate in the investment~~
582 ~~plan is forfeited.~~

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

587 ~~a. Any such employee shall, by default, be enrolled in the~~
588 ~~pension plan at the commencement of employment, and may, by the~~

HB 7011

2013

589 ~~last business day of the 5th month following the employee's~~
590 ~~month of hire, elect to participate in the investment plan. The~~
591 ~~employee's election must be made in writing or by electronic~~
592 ~~means and must be filed with the third-party administrator. The~~
593 ~~election to participate in the investment plan is irrevocable,~~
594 ~~except as provided in paragraph (g).~~

595 ~~b. If the employee files such election within the~~
596 ~~prescribed time period, enrollment in the investment plan is~~
597 ~~effective on the first day of employment. The employer~~
598 ~~retirement contributions paid through the month of the employee~~
599 ~~plan change shall be transferred to the investment plan, and,~~
600 ~~effective the first day of the next month, the employer shall~~
601 ~~pay the applicable contributions based on the employee~~
602 ~~membership class in the investment plan.~~

603 ~~e. Any such employee who fails to elect to participate in~~
604 ~~the investment plan within the prescribed time period is deemed~~
605 ~~to have elected to retain membership in the pension plan, and~~
606 ~~the employee's option to elect to participate in the investment~~
607 ~~plan is forfeited.~~

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

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

HB 7011

2013

617 ~~a. Any such employee may elect to participate in the~~
618 ~~investment plan in lieu of retaining his or her membership in~~
619 ~~the pension plan. The election must be made in writing or by~~
620 ~~electronic means and must be filed with the third-party~~
621 ~~administrator by February 28, 2003, or, in the case of an active~~
622 ~~employee who is on a leave of absence on October 1, 2002, by the~~
623 ~~last business day of the 5th month following the month the leave~~
624 ~~of absence concludes. This election is irrevocable, except as~~
625 ~~provided in paragraph (g). Upon making such election, the~~
626 ~~employee shall be enrolled as a participant of the investment~~
627 ~~plan, the employee's membership in the Florida Retirement System~~
628 ~~is governed by the provisions of this part, and the employee's~~
629 ~~membership in the pension plan terminates. The employee's~~
630 ~~enrollment in the investment plan is effective the first day of~~
631 ~~the month for which a full month's employer contribution is made~~
632 ~~to the investment plan.~~

633 ~~b. Any such employee who fails to elect to participate in~~
634 ~~the investment plan within the prescribed time period is deemed~~
635 ~~to have elected to retain membership in the pension plan, and~~
636 ~~the employee's option to elect to participate in the investment~~
637 ~~plan is forfeited.~~

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

642 ~~a. Any such employee shall, by default, be enrolled in the~~
643 ~~pension plan at the commencement of employment, and may, by the~~
644 ~~last business day of the 5th month following the employee's~~

HB 7011

2013

645 | ~~month of hire, elect to participate in the investment plan. The~~
646 | ~~employee's election must be made in writing or by electronic~~
647 | ~~means and must be filed with the third party administrator. The~~
648 | ~~election to participate in the investment plan is irrevocable,~~
649 | ~~except as provided in paragraph (g).~~

650 | ~~b. If the employee files such election within the~~
651 | ~~prescribed time period, enrollment in the investment plan is~~
652 | ~~effective on the first day of employment. The employer~~
653 | ~~retirement contributions paid through the month of the employee~~
654 | ~~plan change shall be transferred to the investment plan, and,~~
655 | ~~effective the first day of the next month, the employer shall~~
656 | ~~pay the applicable contributions based on the employee~~
657 | ~~membership class in the investment plan.~~

658 | ~~e. Any such employee who fails to elect to participate in~~
659 | ~~the investment plan within the prescribed time period is deemed~~
660 | ~~to have elected to retain membership in the pension plan, and~~
661 | ~~the employee's option to elect to participate in the investment~~
662 | ~~plan is forfeited.~~

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

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

671 | ~~(c)-(e)~~ On or after July 1, 2011, a member of the pension
672 | plan who obtains a refund of employee contributions retains his

HB 7011

2013

673 or her prior plan choice upon return to employment in a
674 regularly established position with a participating employer.

675 (d)~~(f)~~ A member of the investment plan who takes a
676 distribution of any contributions from his or her investment
677 plan account is considered a retiree. A retiree who is initially
678 reemployed in a regularly established position on or after July
679 1, 2010, is not eligible to be enrolled in renewed membership.

680 (e)~~(g)~~ After the period during which an eligible employee
681 initially enrolled before January 1, 2014, had the choice to
682 elect the pension plan or the investment plan, or the month
683 following the receipt of the eligible employee's plan election,
684 if sooner, the employee shall have one opportunity, at the
685 employee's discretion, to choose to move from the pension plan
686 to the investment plan or from the investment plan to the
687 pension plan. Eligible employees may elect to move between plans
688 only if they are earning service credit in an employer-employee
689 relationship consistent with s. 121.021(17)(b), excluding leaves
690 of absence without pay. Effective July 1, 2005, such elections
691 are effective on the first day of the month following the
692 receipt of the election by the third-party administrator and are
693 not subject to the requirements regarding an employer-employee
694 relationship or receipt of contributions for the eligible
695 employee in the effective month, except when the election is
696 received by the third-party administrator. This paragraph is
697 contingent upon approval by the Internal Revenue Service.

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

700 2. If the employee chooses to move to the pension plan,

HB 7011

2013

701 the employee must transfer from his or her investment plan
702 account, and from other employee moneys as necessary, a sum
703 representing the present value of that employee's accumulated
704 benefit obligation immediately following the time of such
705 movement, determined assuming that attained service equals the
706 sum of service in the pension plan and service in the investment
707 plan. Benefit commencement occurs on the first date the employee
708 is eligible for unreduced benefits, using the discount rate and
709 other relevant actuarial assumptions that were used to value the
710 pension plan liabilities in the most recent actuarial valuation.
711 For any employee who, at the time of the second election,
712 already maintains an accrued benefit amount in the pension plan,
713 the then-present value of the accrued benefit is deemed part of
714 the required transfer amount. The division must ensure that the
715 transfer sum is prepared using a formula and methodology
716 certified by an enrolled actuary. A refund of any employee
717 contributions or additional member payments made which exceed
718 the employee contributions that would have accrued had the
719 member remained in the pension plan and not transferred to the
720 investment plan is not permitted.

721 3. Notwithstanding subparagraph 2., an employee who
722 chooses to move to the pension plan and who became eligible to
723 participate in the investment plan by reason of employment in a
724 regularly established position with a state employer after June
725 1, 2002; a district school board employer after September 1,
726 2002; or a local employer after December 1, 2002, must transfer
727 from his or her investment plan account, and from other employee
728 moneys as necessary, a sum representing the employee's actuarial

HB 7011

2013

729 accrued liability. A refund of any employee contributions or
730 additional member ~~participant~~ payments made which exceed the
731 employee contributions that would have accrued had the member
732 remained in the pension plan and not transferred to the
733 investment plan is not permitted.

734 4. An employee's ability to transfer from the pension plan
735 to the investment plan pursuant to paragraph (a) ~~paragraphs (a)-~~
736 ~~(d)~~, and the ability of a current employee to have an option to
737 later transfer back into the pension plan under subparagraph 2.,
738 shall be deemed a significant system amendment. Pursuant to s.
739 121.031(4), any resulting unfunded liability arising from actual
740 original transfers from the pension plan to the investment plan
741 must be amortized within 30 plan years as a separate unfunded
742 actuarial base independent of the reserve stabilization
743 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
744 direct amortization payment may not be calculated for this base.
745 During this 25-year period, the separate base shall be used to
746 offset the impact of employees exercising their second program
747 election under this paragraph. The actuarial funded status of
748 the pension plan will not be affected by such second program
749 elections in any significant manner, after due recognition of
750 the separate unfunded actuarial base. Following the initial 25-
751 year period, any remaining balance of the original separate base
752 shall be amortized over the remaining 5 years of the required
753 30-year amortization period.

754 5. If the employee chooses to transfer from the investment
755 plan to the pension plan and retains an excess account balance
756 in the investment plan after satisfying the buy-in requirements

HB 7011

2013

757 | under this paragraph, the excess may not be distributed until
758 | the member retires from the pension plan. The excess account
759 | balance may be rolled over to the pension plan and used to
760 | purchase service credit or upgrade creditable service in the
761 | pension plan.

762 | (f)1. All eligible employees, except those eligible to
763 | withdraw from the system under s. 121.052(3)(d) or s.
764 | 121.055(1)(b)2., or those eligible for optional retirement
765 | programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
766 | initially enrolled on or after January 1, 2014, are compulsory
767 | members of the investment plan. Employees eligible to withdraw
768 | from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2.,
769 | may choose to withdraw from the system or to participate in the
770 | investment plan as provided in those sections. Employees
771 | eligible for optional retirement programs under s. 121.051(2)(c)
772 | or s. 121.35, except as provided in s. 121.051(1)(a), may choose
773 | to participate in the optional retirement program or the
774 | investment plan as provided in those sections. Membership in the
775 | pension plan is not permitted except as provided in s.
776 | 121.591(2).

777 | 2. Employees initially enrolled on or after January 1,
778 | 2014, are not permitted to use the election opportunity
779 | specified in paragraph (e).

780 | 3. The amount of retirement contributions paid by the
781 | employee and employer, as required under s. 121.72, shall be
782 | placed in a default fund as designated by the state board, until
783 | an account is activated in the investment plan, at which time
784 | the member may move the contributions from the default fund to

785 | other funds provided in the investment plan.

786 | (5) CONTRIBUTIONS.—

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

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

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

798 | 3. The employer contribution portion earmarked for
 799 | disability benefits, for members initially enrolled before
 800 | January 1, 2014, shall be transferred to the Florida Retirement
 801 | System Trust Fund.

802 | (8) INVESTMENT PLAN ADMINISTRATION.—The investment plan
 803 | shall be administered by the state board and affected employers.
 804 | The state board may require oaths, by affidavit or otherwise,
 805 | and acknowledgments from persons in connection with the
 806 | administration of its statutory duties and responsibilities for
 807 | the investment plan. An oath, by affidavit or otherwise, may not
 808 | be required of a member at the time of enrollment. For members
 809 | initially enrolled before January 1, 2014, acknowledgment of an
 810 | employee's election to participate in the program shall be no
 811 | greater than necessary to confirm the employee's election. The
 812 | state board shall adopt rules to carry out its statutory duties

HB 7011

2013

813 with respect to administering the investment plan, including
814 establishing the roles and responsibilities of affected state,
815 local government, and education-related employers, the state
816 board, the department, and third-party contractors. The
817 department shall adopt rules necessary to administer the
818 investment plan in coordination with the pension plan and the
819 disability benefits available under the investment plan.

820 (a)1. The state board shall select and contract with a
821 third-party administrator to provide administrative services if
822 those services cannot be competitively and contractually
823 provided by the division. With the approval of the state board,
824 the third-party administrator may subcontract to provide
825 components of the administrative services. As a cost of
826 administration, the state board may compensate any such
827 contractor for its services, in accordance with the terms of the
828 contract, as is deemed necessary or proper by the board. The
829 third-party administrator may not be an approved provider or be
830 affiliated with an approved provider.

831 2. These administrative services may include, but are not
832 limited to, enrollment of eligible employees, collection of
833 employer and employee contributions, disbursement of
834 contributions to approved providers in accordance with the
835 allocation directions of members; services relating to
836 consolidated billing; individual and collective recordkeeping
837 and accounting; asset purchase, control, and safekeeping; and
838 direct disbursement of funds to and from the third-party
839 administrator, the division, the state board, employers,
840 members, approved providers, and beneficiaries. This section

HB 7011

2013

841 does not prevent or prohibit a bundled provider from providing
842 any administrative or customer service, including accounting and
843 administration of individual member benefits and contributions;
844 individual member recordkeeping; asset purchase, control, and
845 safekeeping; direct execution of the member's instructions as to
846 asset and contribution allocation; calculation of daily net
847 asset values; direct access to member account information; or
848 periodic reporting to members, at least quarterly, on account
849 balances and transactions, if these services are authorized by
850 the state board as part of the contract.

851 (b)1. The state board shall select and contract with one
852 or more organizations to provide educational services. With
853 approval of the state board, the organizations may subcontract
854 to provide components of the educational services. As a cost of
855 administration, the state board may compensate any such
856 contractor for its services in accordance with the terms of the
857 contract, as is deemed necessary or proper by the board. The
858 education organization may not be an approved provider or be
859 affiliated with an approved provider.

860 2. Educational services shall be designed by the state
861 board and department to assist employers, eligible employees,
862 members, and beneficiaries in order to maintain compliance with
863 United States Department of Labor regulations under s. 404(c) of
864 the Employee Retirement Income Security Act of 1974 and to
865 assist employees in their choice of pension plan or investment
866 plan retirement alternatives. Educational services include, but
867 are not limited to, disseminating educational materials;
868 providing retirement planning education; explaining the pension

869 | plan and the investment plan; and offering financial planning
 870 | guidance on matters such as investment diversification,
 871 | investment risks, investment costs, and asset allocation. An
 872 | approved provider may also provide educational information,
 873 | including retirement planning and investment allocation
 874 | information concerning its products and services.

875 | (c)1. In evaluating and selecting a third-party
 876 | administrator, the state board shall establish criteria for
 877 | evaluating the relative capabilities and qualifications of each
 878 | proposed administrator. In developing such criteria, the state
 879 | board shall consider:

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

883 | b. The administrator's demonstrated experience in
 884 | providing daily valued recordkeeping to defined contribution
 885 | programs.

886 | c. The administrator's ability and willingness to
 887 | coordinate its activities with employers, the state board, and
 888 | the division, and to supply to such employers, the board, and
 889 | the division the information and data they require, including,
 890 | but not limited to, monthly management reports, quarterly member
 891 | reports, and ad hoc reports requested by the department or state
 892 | board.

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

895 | e. The administrator's ability to interact with the
 896 | members, the employers, the state board, the division, and the

HB 7011

2013

897 providers; the means by which members may access account
898 information, direct investment of contributions, make changes to
899 their accounts, transfer moneys between available investment
900 vehicles, and transfer moneys between investment products; and
901 any fees that apply to such activities.

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

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

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

910 b. Ability and willingness to coordinate its activities
911 with the employers, the state board, and the division, and to
912 supply to such employers, the board, and the division the
913 information and data they require, including, but not limited
914 to, reports on educational contacts.

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

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

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

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

923 (d) The state board shall develop the form and content of
924 any contracts to be offered under the investment plan. In

925 | developing the contracts, the board shall consider:

926 | 1. The nature and extent of the rights and benefits to be
 927 | afforded in relation to the contributions required under the
 928 | plan.

929 | 2. The suitability of the rights and benefits provided and
 930 | the interests of employers in the recruitment and retention of
 931 | eligible employees.

932 | (e)1. The state board may contract for professional
 933 | services, including legal, consulting, accounting, and actuarial
 934 | services, deemed necessary to implement and administer the
 935 | investment plan. The state board may enter into a contract with
 936 | one or more vendors to provide low-cost investment advice to
 937 | members, supplemental to education provided by the third-party
 938 | administrator. All fees under any such contract shall be paid by
 939 | those members who choose to use the services of the vendor.

940 | 2. The department may contract for professional services,
 941 | including legal, consulting, accounting, and actuarial services,
 942 | deemed necessary to implement and administer the investment plan
 943 | in coordination with the pension plan. The department, in
 944 | coordination with the state board, may enter into a contract
 945 | with the third-party administrator in order to coordinate
 946 | services common to the various programs within the Florida
 947 | Retirement System.

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

951 | (g) The state board shall receive and resolve member
 952 | complaints against the program, the third-party administrator,

HB 7011

2013

953 or any program vendor or provider; shall resolve any conflict
954 between the third-party administrator and an approved provider
955 if such conflict threatens the implementation or administration
956 of the program or the quality of services to employees; and may
957 resolve any other conflicts. The third-party administrator shall
958 retain all member records for at least 5 years for use in
959 resolving any member conflicts. The state board, the third-party
960 administrator, or a provider is not required to produce
961 documentation or an audio recording to justify action taken with
962 regard to a member if the action occurred 5 or more years before
963 the complaint is submitted to the state board. It is presumed
964 that all action taken 5 or more years before the complaint is
965 submitted was taken at the request of the member and with the
966 member's full knowledge and consent. To overcome this
967 presumption, the member must present documentary evidence or an
968 audio recording demonstrating otherwise.

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

970 (a) The state board shall develop policy and procedures
971 for selecting, evaluating, and monitoring the performance of
972 approved providers and investment products under the investment
973 plan. In accordance with such policy and procedures, the state
974 board shall designate and contract for a number of investment
975 products as determined by the board. The board shall also select
976 one or more bundled providers, each of which may offer multiple
977 investment options and related services, if such approach is
978 determined by the board to provide value to the members
979 otherwise not available through individual investment products.
980 Each approved bundled provider may offer investment options that

HB 7011

2013

981 provide members with the opportunity to invest in each of the
982 following asset classes, to be composed of individual options
983 that represent a single asset class or a combination thereof:
984 money markets, United States fixed income, United States
985 equities, and foreign stock. The state board shall review and
986 manage all educational materials, contract terms, fee schedules,
987 and other aspects of the approved provider relationships to
988 ensure that no provider is unduly favored or penalized by virtue
989 of its status within the investment plan. Additionally, the
990 state board, consistent with its fiduciary responsibilities,
991 shall develop one or more investment products to be offered in
992 the investment plan.

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

995 1. Notwithstanding any other provision of this section,
996 the state board shall select a provider to offer investment plan
997 members additional investment alternatives by providing a self-
998 directed brokerage account.

999 2. The state board shall contract with a provider to offer
1000 a self-directed brokerage account. In selecting the provider,
1001 the state board shall consider the following:

1002 a. Financial strength and stability as evidenced by the
1003 highest ratings assigned by nationally recognized rating
1004 services when comparing proposed providers that are so rated.

1005 b. Reasonableness of fees compared to other providers
1006 taking into consideration the quantity and quality of services
1007 being offered.

1008 c. Compliance with the Internal Revenue Code and all

HB 7011

2013

1009 applicable federal and state securities laws.

1010 d. Available methods for members to interact with the
1011 provider and the means by which members may access account
1012 information, direct investment of funds, transfer funds, and
1013 receive funds prospectuses and related investment materials as
1014 required by state and federal regulations.

1015 e. The ability to provide prompt, efficient, and accurate
1016 responses to member directions, as well as providing
1017 confirmations and quarterly account statements in a timely
1018 fashion.

1019 f. The process by which assets are invested, as well as
1020 any waiting periods when monies are transferred.

1021 g. Organizational factors, including, but not limited to,
1022 financial solvency, organizational depth, and experience in
1023 providing self-directed brokerage account services to public
1024 defined contribution plans.

1025 3. The provider of the self-directed brokerage account
1026 shall:

1027 a. Make the self-directed brokerage account available
1028 under the most beneficial terms available to any customer.

1029 b. Agree not to sell or distribute member lists generated
1030 through services rendered to the investment plan.

1031 c. Not be a bundled provider.

1032 d. Provide for an education component that is available in
1033 multimedia formats and that provides impartial and balanced
1034 information about investment options and fees associated with
1035 participation in the self-directed brokerage account.

1036 4. The provider, as well as any of its related entities,

HB 7011

2013

1037 may not offer any proprietary products as investment
1038 alternatives in the self-directed brokerage account.

1039 5. The state board shall monitor the selected provider to
1040 ensure continued compliance with established selection criteria,
1041 board policy and procedures, state and federal regulations, and
1042 any contractual provisions.

1043 6. The provider shall ensure that a member opening a self-
1044 directed brokerage account is provided a quarterly statement
1045 that details member investments in the self-directed brokerage
1046 account. The statement shall be in lieu of, and satisfy the
1047 requirements of, subsection (11) with respect to the member
1048 investments in the self-directed brokerage account. The provider
1049 shall include in the statement the following details:

1050 a. Account investment options.

1051 b. The market value of the account at the close of the
1052 current quarter and the previous quarter.

1053 c. Account gains and losses.

1054 d. Transfers into and out of the account.

1055 e. Any fees, charges, penalties, and deductions that apply
1056 to the account.

1057 7. The self-directed brokerage account may include the
1058 following securities as investment alternatives:

1059 a. Stocks listed on a Securities and Exchange Commission
1060 regulated national exchange.

1061 b. Exchange traded funds.

1062 c. Mutual funds.

1063 8. The self-directed brokerage account may not include the
1064 following as investment alternatives:

- 1065 | a. Illiquid investments.
- 1066 | b. Over-the-Counter Bulletin Board securities.
- 1067 | c. Pink Sheet securities.
- 1068 | d. Leveraged exchange traded funds.
- 1069 | e. Direct ownership of foreign securities.
- 1070 | f. Derivatives, including, but not limited to, futures and
- 1071 | options contracts on securities, market indexes, and
- 1072 | commodities.
- 1073 | g. Buying or trading on margin.
- 1074 | h. Investment plan products.
- 1075 | i. Any investment that would jeopardize the investment
- 1076 | plan's tax qualified status.
- 1077 | 9. A member may participate in the self-directed
- 1078 | brokerage account if the member:
- 1079 | a. Maintains a minimum balance of \$5,000 in the products
- 1080 | offered under the investment plan.
- 1081 | b. Makes a minimum initial transfer of funds into the
- 1082 | self-directed brokerage account of \$1,000.
- 1083 | c. Makes subsequent transfers of funds into the self-
- 1084 | directed brokerage account in amounts of \$1,000 or greater.
- 1085 | d. Pays all trading fees, commissions, administrative
- 1086 | fees, and any other expenses associated with participating in
- 1087 | the self-directed brokerage account from the funds in the self-
- 1088 | directed brokerage account.
- 1089 | e. Does not violate any trading restrictions established
- 1090 | by the provider, the investment plan, or state or federal law.
- 1091 | 10. Employer and employee contributions shall be initially
- 1092 | deposited into investment plan products and may be transferred

1093 | to the self-directed brokerage account.

1094 | 11. Distributions are not permissible directly from assets
 1095 | in the self-directed brokerage account. Assets must first be
 1096 | transferred to investment plan products. A distribution may be
 1097 | requested after the transfer is completed and all investment
 1098 | plan distribution requirements are met.

1099 | 12. The state board must notify members that:

1100 | a. The state board is not responsible for managing the
 1101 | self-directed brokerage account beyond administrative
 1102 | requirements as established between the state board and the
 1103 | provider of the self-directed brokerage account.

1104 | b. Investment alternatives available through the self-
 1105 | directed brokerage account have not been subjected to any
 1106 | selection process, are not monitored by the state board, require
 1107 | investment expertise to prudently buy, manage, or dispose of,
 1108 | and have a risk of substantial loss.

1109 | c. The member is responsible for all administrative,
 1110 | investment, and trading fees associated with participating in
 1111 | the self-directed brokerage account.

1112 | (10) EDUCATION COMPONENT.—

1113 | (a) The state board, in coordination with the department,
 1114 | shall provide for an education component for eligible employees
 1115 | ~~system members~~ in a manner consistent with the provisions of
 1116 | this subsection ~~section~~. ~~The education component must be~~
 1117 | ~~available to eligible employees at least 90 days prior to the~~
 1118 | ~~beginning date of the election period for the employees of the~~
 1119 | ~~respective types of employers.~~

1120 | (b) The education component must provide system members

HB 7011

2013

1121 with impartial and balanced information about plan choices for
1122 members initially enrolled before January 1, 2014. The education
1123 component must involve multimedia formats. Program comparisons
1124 must, to the greatest extent possible, be based upon the
1125 retirement income that different retirement programs may provide
1126 to the member. The state board shall monitor the performance of
1127 the contract to ensure that the program is conducted in
1128 accordance with the contract, applicable law, and the rules of
1129 the state board.

1130 (c) The state board, in coordination with the department,
1131 shall provide for an initial and ongoing transfer education
1132 component to provide system members initially enrolled before
1133 January 1, 2014, with information necessary to make informed
1134 plan choice decisions. The transfer education component must
1135 include, but is not limited to, information on:

1136 1. The amount of money available to a member to transfer
1137 to the defined contribution program.

1138 2. The features of and differences between the pension
1139 plan and the defined contribution program, both generally and
1140 specifically, as those differences may affect the member.

1141 3. The expected benefit available if the member were to
1142 retire under each of the retirement programs, based on
1143 appropriate alternative sets of assumptions.

1144 4. The rate of return from investments in the defined
1145 contribution program and the period of time over which such rate
1146 of return must be achieved to equal or exceed the expected
1147 monthly benefit payable to the member under the pension plan.

1148 5. The historical rates of return for the investment

HB 7011

2013

1149 alternatives available in the defined contribution programs.

1150 6. The benefits and historical rates of return on
 1151 investments available in a typical deferred compensation plan or
 1152 a typical plan under s. 403(b) of the Internal Revenue Code for
 1153 which the employee may be eligible.

1154 7. The program choices available to employees of the State
 1155 University System and the comparative benefits of each available
 1156 program, if applicable.

1157 8. Payout options available in each of the retirement
 1158 programs.

1159 ~~(h) Pursuant to subsection (8), all Florida Retirement~~
 1160 ~~System employers have an obligation to regularly communicate the~~
 1161 ~~existence of the two Florida Retirement System plans and the~~
 1162 ~~plan choice in the natural course of administering their~~
 1163 ~~personnel functions, using the educational materials supplied by~~
 1164 ~~the state board and the Department of Management Services.~~

1165 (15) STATEMENT OF FIDUCIARY STANDARDS AND
 1166 RESPONSIBILITIES.-

1167 (a) Investment of investment ~~defined contribution~~ plan
 1168 assets shall be made for the sole interest and exclusive purpose
 1169 of providing benefits to members and beneficiaries and defraying
 1170 reasonable expenses of administering the plan. The program's
 1171 assets shall be invested on behalf of the program members with
 1172 the care, skill, and diligence that a prudent person acting in a
 1173 like manner would undertake. The performance of the investment
 1174 duties set forth in this paragraph shall comply with the
 1175 fiduciary standards set forth in the Employee Retirement Income
 1176 Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case

HB 7011

2013

1177 of conflict with other provisions of law authorizing
 1178 investments, the investment and fiduciary standards set forth in
 1179 this subsection shall prevail.

1180 (c) Subparagraph (8)(b)2. and paragraph (b) incorporate
 1181 the federal law concept of participant control, established by
 1182 regulations of the United States Department of Labor under s.
 1183 404(c) of the Employee Retirement Income Security Act of 1974
 1184 (ERISA). The purpose of this paragraph is to assist employers
 1185 and the state board in maintaining compliance with s. 404(c),
 1186 while avoiding unnecessary costs and eroding member benefits
 1187 under the investment plan. Pursuant to 29 C.F.R. s. 2550.404a-
 1188 5(d)(4) ~~2550.404e-1(b)(2)(i)(B)(1)(viii)~~, the state board or its
 1189 designated agents shall deliver to members of the investment
 1190 plan a copy of the prospectus most recently provided to the
 1191 plan, ~~and, pursuant to 29 C.F.R. s. 2550.404e-~~
 1192 ~~1(b)(2)(i)(B)(2)(ii), shall provide such members an opportunity~~
 1193 ~~to obtain this information,~~ except that:

1194 1. The requirement to deliver a prospectus shall be
 1195 satisfied by delivery of a fund profile or summary profile that
 1196 contains the information that would be included in a summary
 1197 prospectus as described by Rule 498 under the Securities Act of
 1198 1933, 17 C.F.R. s. 230.498. If the transaction fees, expense
 1199 information or other information provided by a mutual fund in
 1200 the prospectus does not reflect terms negotiated by the state
 1201 board or its designated agents, the requirement is satisfied by
 1202 delivery of a separate document described by Rule 498
 1203 substituting accurate information; and

1204 2. Delivery shall be effected if delivery is through

HB 7011

2013

1205 electronic means and the following standards are satisfied:

1206 a. Electronically-delivered documents are prepared and
1207 provided consistent with style, format, and content requirements
1208 applicable to printed documents;

1209 b. Each member is provided timely and adequate notice of
1210 the documents that are to be delivered, and their significance,
1211 and of the member's right to obtain a paper copy of such
1212 documents free of charge;

1213 c. Members have adequate access to the electronic
1214 documents, at locations such as their worksites or public
1215 facilities, and have the ability to convert the documents to
1216 paper free of charge by the state board, and the board or its
1217 designated agents take appropriate and reasonable measures to
1218 ensure that the system for furnishing electronic documents
1219 results in actual receipt. Members have provided consent to
1220 receive information in electronic format, which consent may be
1221 revoked; and

1222 d. The state board, or its designated agent, actually
1223 provides paper copies of the documents free of charge, upon
1224 request.

1225 3. The state board is not required to deliver a prospectus
1226 or other information for the underlying investments available
1227 through the self-directed brokerage account authorized by
1228 paragraph (9) (h).

1229 (16) DISABILITY BENEFITS.—For any member of the investment
1230 plan initially enrolled in the Florida Retirement System before
1231 January 1, 2014, who becomes totally and permanently disabled,
1232 benefits must be paid in accordance with the provisions of s.

HB 7011

2013

1233 | 121.591. Investment plan members initially enrolled in the
1234 | Florida Retirement System on or after January 1, 2014, are not
1235 | entitled to disability benefits as provided by this chapter.

1236 | Section 6. Subsection (2) of section 121.591, Florida
1237 | Statutes, is amended to read:

1238 | 121.591 Payment of benefits.—Benefits may not be paid
1239 | under the Florida Retirement System Investment Plan unless the
1240 | member has terminated employment as provided in s.
1241 | 121.021(39)(a) or is deceased and a proper application has been
1242 | filed as prescribed by the state board or the department.
1243 | Benefits, including employee contributions, are not payable
1244 | under the investment plan for employee hardships, unforeseeable
1245 | emergencies, loans, medical expenses, educational expenses,
1246 | purchase of a principal residence, payments necessary to prevent
1247 | eviction or foreclosure on an employee's principal residence, or
1248 | any other reason except a requested distribution for retirement,
1249 | a mandatory de minimis distribution authorized by the
1250 | administrator, or a required minimum distribution provided
1251 | pursuant to the Internal Revenue Code. The state board or
1252 | department, as appropriate, may cancel an application for
1253 | retirement benefits if the member or beneficiary fails to timely
1254 | provide the information and documents required by this chapter
1255 | and the rules of the state board and department. In accordance
1256 | with their respective responsibilities, the state board and the
1257 | department shall adopt rules establishing procedures for
1258 | application for retirement benefits and for the cancellation of
1259 | such application if the required information or documents are
1260 | not received. The state board and the department, as

HB 7011

2013

1261 appropriate, are authorized to cash out a de minimis account of
1262 a member who has been terminated from Florida Retirement System
1263 covered employment for a minimum of 6 calendar months. A de
1264 minimis account is an account containing employer and employee
1265 contributions and accumulated earnings of not more than \$5,000
1266 made under the provisions of this chapter. Such cash-out must be
1267 a complete lump-sum liquidation of the account balance, subject
1268 to the provisions of the Internal Revenue Code, or a lump-sum
1269 direct rollover distribution paid directly to the custodian of
1270 an eligible retirement plan, as defined by the Internal Revenue
1271 Code, on behalf of the member. Any nonvested accumulations and
1272 associated service credit, including amounts transferred to the
1273 suspense account of the Florida Retirement System Investment
1274 Plan Trust Fund authorized under s. 121.4501(6), shall be
1275 forfeited upon payment of any vested benefit to a member or
1276 beneficiary, except for de minimis distributions or minimum
1277 required distributions as provided under this section. If any
1278 financial instrument issued for the payment of retirement
1279 benefits under this section is not presented for payment within
1280 180 days after the last day of the month in which it was
1281 originally issued, the third-party administrator or other duly
1282 authorized agent of the state board shall cancel the instrument
1283 and credit the amount of the instrument to the suspense account
1284 of the Florida Retirement System Investment Plan Trust Fund
1285 authorized under s. 121.4501(6). Any amounts transferred to the
1286 suspense account are payable upon a proper application, not to
1287 include earnings thereon, as provided in this section, within 10
1288 years after the last day of the month in which the instrument

HB 7011

2013

1289 was originally issued, after which time such amounts and any
1290 earnings attributable to employer contributions shall be
1291 forfeited. Any forfeited amounts are assets of the trust fund
1292 and are not subject to chapter 717.

1293 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided
1294 under this subsection are payable in lieu of the benefits that
1295 would otherwise be payable under the provisions of subsection
1296 (1) for investment plan members initially enrolled in the
1297 Florida Retirement System before January 1, 2014. Such benefits
1298 for eligible members must be funded from employer contributions
1299 made under s. 121.571, transferred employee contributions and
1300 funds accumulated pursuant to paragraph (a), and interest and
1301 earnings thereon. Investment plan members initially enrolled in
1302 the Florida Retirement System on or after January 1, 2014, are
1303 not eligible for disability benefits as provided by this
1304 section.

1305 (a) Transfer of funds.—To qualify to receive monthly
1306 disability benefits under this subsection:

1307 1. All moneys accumulated in the member's account,
1308 including vested and nonvested accumulations as described in s.
1309 121.4501(6), must be transferred from such individual accounts
1310 to the division for deposit in the disability account of the
1311 Florida Retirement System Trust Fund. Such moneys must be
1312 accounted for separately. Earnings must be credited on an annual
1313 basis for amounts held in the disability accounts of the Florida
1314 Retirement System Trust Fund based on actual earnings of the
1315 trust fund.

1316 2. If the member has retained retirement credit earned

HB 7011

2013

1317 | under the pension plan as provided in s. 121.4501(3), a sum
 1318 | representing the actuarial present value of such credit within
 1319 | the Florida Retirement System Trust Fund shall be reassigned by
 1320 | the division from the pension plan to the disability program as
 1321 | implemented under this subsection and shall be deposited in the
 1322 | disability account of the trust fund. Such moneys must be
 1323 | accounted for separately.

1324 | (b) Disability retirement; entitlement.—

1325 | 1. An eligible A member of the investment plan who becomes
 1326 | totally and permanently disabled, as defined in paragraph (d),
 1327 | after completing 8 years of creditable service, or an eligible a
 1328 | member who becomes totally and permanently disabled in the line
 1329 | of duty regardless of length of service, is entitled to a
 1330 | monthly disability benefit.

1331 | 2. In order for service to apply toward the 8 years of
 1332 | creditable service required for regular disability benefits, or
 1333 | toward the creditable service used in calculating a service-
 1334 | based benefit as provided under paragraph (g), the service must
 1335 | be creditable service as described below:

1336 | a. The member's period of service under the investment
 1337 | plan shall be considered creditable service, except as provided
 1338 | in subparagraph d.

1339 | b. If the member has elected to retain credit for service
 1340 | under the pension plan as provided under s. 121.4501(3), all
 1341 | such service shall be considered creditable service.

1342 | c. If the member elects to transfer to his or her member
 1343 | accounts a sum representing the present value of his or her
 1344 | retirement credit under the pension plan as provided under s.

HB 7011

2013

1345 121.4501(3), the period of service under the pension plan
1346 represented in the present value amounts transferred shall be
1347 considered creditable service, except as provided in
1348 subparagraph d.

1349 d. If a member has terminated employment and has taken
1350 distribution of his or her funds as provided in subsection (1),
1351 all creditable service represented by such distributed funds is
1352 forfeited for purposes of this subsection.

1353 (c) Disability retirement effective date.—The effective
1354 retirement date for an eligible ~~a~~ member who applies and is
1355 approved for disability retirement shall be established as
1356 provided under s. 121.091(4) (a)2. and 3.

1357 (d) Total and permanent disability.—An eligible ~~A~~ member
1358 shall be considered totally and permanently disabled if, in the
1359 opinion of the division, he or she is prevented, by reason of a
1360 medically determinable physical or mental impairment, from
1361 rendering useful and efficient service as an officer or
1362 employee.

1363 (e) Proof of disability.— Before approving payment of any
1364 disability retirement benefit, the division shall require proof
1365 that the member is totally and permanently disabled as provided
1366 under s. 121.091(4) (c).

1367 (f) Disability retirement benefit.—Upon the disability
1368 retirement of a member under this subsection, the member shall
1369 receive a monthly benefit that begins accruing on the first day
1370 of the month of disability retirement, as approved by the
1371 division, and is payable on the last day of that month and each
1372 month thereafter during his or her lifetime and continued

HB 7011

2013

1373 disability. All disability benefits must be paid out of the
1374 disability account of the Florida Retirement System Trust Fund
1375 established under this subsection.

1376 (g) Computation of disability retirement benefit.—The
1377 amount of each monthly payment must be calculated as provided
1378 under s. 121.091(4)(f). Creditable service under both the
1379 pension plan and the investment plan shall be applicable as
1380 provided under paragraph (b).

1381 (h) Reapplication.—A member whose initial application for
1382 disability retirement is denied may reapply for disability
1383 benefits as provided in s. 121.091(4)(g).

1384 (i) Membership.—Upon approval of a member's application
1385 for disability benefits, the member shall be transferred to the
1386 pension plan, effective upon his or her disability retirement
1387 effective date.

1388 (j) Option to cancel.—A member whose application for
1389 disability benefits is approved may cancel the application if
1390 the cancellation request is received by the division before a
1391 disability retirement warrant has been deposited, cashed, or
1392 received by direct deposit. Upon cancellation:

1393 1. The member's transfer to the pension plan under
1394 paragraph (i) shall be nullified;

1395 2. The member shall be retroactively reinstated in the
1396 investment plan without hiatus;

1397 3. All funds transferred to the Florida Retirement System
1398 Trust Fund under paragraph (a) must be returned to the member
1399 accounts from which the funds were drawn; and

1400 4. The member may elect to receive the benefit payable

HB 7011

2013

1401 under subsection (1) in lieu of disability benefits.

1402 (k) Recovery from disability.—

1403 1. The division may require periodic reexaminations at the
 1404 expense of the disability program account of the Florida
 1405 Retirement System Trust Fund. Except as provided in subparagraph
 1406 2., all other matters relating to recovery from disability shall
 1407 be as provided under s. 121.091(4)(h).

1408 2. Upon recovery from disability, the recipient of
 1409 disability retirement benefits under this subsection shall be a
 1410 compulsory member of the investment plan. The net difference
 1411 between the recipient's original account balance transferred to
 1412 the Florida Retirement System Trust Fund, including earnings and
 1413 total disability benefits paid to such recipient, if any, shall
 1414 be determined as provided in sub-subparagraph a.

1415 a. An amount equal to the total benefits paid shall be
 1416 subtracted from that portion of the transferred account balance
 1417 consisting of vested accumulations as described under s.
 1418 121.4501(6), if any, and an amount equal to the remainder of
 1419 benefit amounts paid, if any, shall be subtracted from any
 1420 remaining nonvested accumulations.

1421 b. Amounts subtracted under sub-subparagraph a. must be
 1422 retained within the disability account of the Florida Retirement
 1423 System Trust Fund. Any remaining account balance shall be
 1424 transferred to the third-party administrator for disposition as
 1425 provided under sub-subparagraph c. or sub-subparagraph d., as
 1426 appropriate.

1427 c. If the recipient returns to covered employment,
 1428 transferred amounts must be deposited in individual accounts

HB 7011

2013

1429 under the investment plan, as directed by the member. Vested and
1430 nonvested amounts shall be accounted for separately as provided
1431 in s. 121.4501(6).

1432 d. If the recipient fails to return to covered employment
1433 upon recovery from disability:

1434 (I) Any remaining vested amount must be deposited in
1435 individual accounts under the investment plan, as directed by
1436 the member, and is payable as provided in subsection (1).

1437 (II) Any remaining nonvested amount must be held in a
1438 suspense account and is forfeitable after 5 years as provided in
1439 s. 121.4501(6).

1440 3. If present value was reassigned from the pension plan
1441 to the disability program as provided under subparagraph (a)2.,
1442 the full present value amount must be returned to the defined
1443 benefit account within the Florida Retirement System Trust Fund
1444 and the member's associated retirement credit under the pension
1445 plan must be reinstated in full. Any benefit based upon such
1446 credit must be calculated as provided in s. 121.091(4)(h)1.

1447 (l) Nonadmissible causes of disability.—A member is not
1448 entitled to a disability retirement benefit if the disability
1449 results from any injury or disease as described in s.
1450 121.091(4)(i).

1451 (m) Disability retirement of justice or judge by order of
1452 Supreme Court.—

1453 1. If an eligible ~~a~~ member is a justice of the Supreme
1454 Court, judge of a district court of appeal, circuit judge, or
1455 judge of a county court who has served for the years equal to,
1456 or greater than, the vesting requirement in s. 121.021(45) as an

HB 7011

2013

1457 | elected constitutional judicial officer, including service as a
1458 | judicial officer in any court abolished pursuant to Art. V of
1459 | the State Constitution, and who is retired for disability
1460 | pursuant to s. 12, Art. V of the State Constitution, the
1461 | member's Option 1 monthly disability benefit amount as provided
1462 | in s. 121.091(6)(a)1. shall be two-thirds of his or her monthly
1463 | compensation as of the member's disability retirement date. The
1464 | member may alternatively elect to receive an actuarially
1465 | adjusted disability retirement benefit under any other option as
1466 | provided in s. 121.091(6)(a) or to receive the normal benefit
1467 | payable under subsection (1).

1468 | 2. If any justice or judge who is a member of the
1469 | investment plan is retired for disability pursuant to s. 12,
1470 | Art. V of the State Constitution and elects to receive a monthly
1471 | disability benefit under the provisions of this paragraph:

1472 | a. Any present value amount that was transferred to his or
1473 | her investment plan account and all employer and employee
1474 | contributions made to such account on his or her behalf, plus
1475 | interest and earnings thereon, must be transferred to and
1476 | deposited in the disability account of the Florida Retirement
1477 | System Trust Fund; and

1478 | b. The monthly disability benefits payable under this
1479 | paragraph shall be paid from the disability account of the
1480 | Florida Retirement System Trust Fund.

1481 | (n) Death of retiree or beneficiary.—Upon the death of a
1482 | disabled retiree or beneficiary of the retiree who is receiving
1483 | monthly disability benefits under this subsection, the monthly
1484 | benefits shall be paid through the last day of the month of

HB 7011

2013

1485 death and shall terminate, or be adjusted, if applicable, as of
 1486 that date in accordance with the optional form of benefit
 1487 selected at the time of retirement. The department may adopt
 1488 rules necessary to administer this paragraph.

1489 Section 7. Subsections (4) and (5) of section 121.71,
 1490 Florida Statutes, are amended to read:

1491 121.71 Uniform rates; process; calculations; levy.—

1492 (4) Required employer retirement contribution rates for
 1493 each membership class and subclass of the Florida Retirement
 1494 System for both retirement plans are as follows:

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2013</u>	Percentage of Gross Compensation, Effective July 1, <u>2014</u>
	2012	2013
Regular Class	<u>X.XX%</u> 3.55%	<u>X.XX%</u> 3.55%
Special Risk Class	<u>X.XX%</u> 11.01%	<u>X.XX%</u> 11.01%
Special Risk Administrative Support Class	<u>X.XX%</u> 3.94%	<u>X.XX%</u> 3.94%

HB 7011

2013

1501	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>X.XX%</u> 6.51%	<u>X.XX%</u> 6.51%
1502	Elected Officers' Class— Justices, Judges	<u>X.XX%</u> 10.02%	<u>X.XX%</u> 10.02%
1503	Elected Officers' Class— County Elected Officers	<u>X.XX%</u> 8.36%	<u>X.XX%</u> 8.36%
1504	Senior Management Class	<u>X.XX%</u> 4.84%	<u>X.XX%</u> 4.84%
1505	DROP	<u>X.XX%</u> 4.33%	<u>X.XX%</u> 4.33%

1506 (5) In order to address unfunded actuarial liabilities of
 1507 the system, the required employer retirement contribution rates
 1508 for each membership class and subclass of the Florida Retirement
 1509 System for both retirement plans are as follows:
 1510

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2013</u> 2012	Percentage of Gross Compensation, Effective July 1, <u>2014</u> 2013
------------------	--	--

HB 7011

2013

1511			
1512	Regular Class	<u>X.XX%</u> 0.49%	<u>X.XX%</u> 2.02%
1513	Special Risk Class	<u>X.XX%</u> 2.75%	<u>X.XX%</u> 7.03%
1514	Special Risk Administrative Support Class	<u>X.XX%</u> 0.83%	<u>X.XX%</u> 27.04%
1515	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>X.XX%</u> 0.88%	<u>X.XX%</u> 27.18%
1516	Elected Officers' Class— Justices, Judges	<u>X.XX%</u> 0.77%	<u>X.XX%</u> 16.38%
1517	Elected Officers' Class— County Elected Officers	<u>X.XX%</u> 0.73%	<u>X.XX%</u> 23.01%
1518	Senior Management Service Class	<u>X.XX%</u> 0.32%	<u>X.XX%</u> 11.25%
1519	DROP	<u>X.XX%</u> 0.00%	<u>X.XX%</u> 6.21%

1520
1521
1522
1523
1524
1525
1526
1527
1528
1529
1530
1531
1532
1533
1534
1535
1536
1537
1538
1539
1540
1541
1542
1543
1544
1545
1546
1547

Section 8. Section 238.072, Florida Statutes, is amended to read:

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

Section 9. Subsection (11) of section 413.051, Florida Statutes, is amended to read:

413.051 Eligible blind persons; operation of vending stands.—

(11) Effective July 1, 1996, blind licensees who remain members of the Florida Retirement System pursuant to s. 121.051(7)(b)1. ~~121.051(6)(b)1.~~ shall pay any unappropriated retirement costs from their net profits or from program income.

HB 7011

2013

1548 Within 30 days after the effective date of this act, each blind
1549 licensee who is eligible to maintain membership in the Florida
1550 Retirement System under s. 121.051(7)(b)1. ~~121.051(6)(b)1.~~, but
1551 who elects to withdraw from the system as provided in s.
1552 121.051(7)(b)3. ~~121.051(6)(b)3.~~, must, on or before July 31,
1553 1996, notify the Division of Blind Services and the Department
1554 of Management Services in writing of his or her election to
1555 withdraw. Failure to timely notify the divisions shall be deemed
1556 a decision to remain a compulsory member of the Florida
1557 Retirement System. However, if, at any time after July 1, 1996,
1558 sufficient funds are not paid by a blind licensee to cover the
1559 required contribution to the Florida Retirement System, that
1560 blind licensee shall become ineligible to participate in the
1561 Florida Retirement System on the last day of the first month for
1562 which no contribution is made or the amount contributed is
1563 insufficient to cover the required contribution. For any blind
1564 licensee who becomes ineligible to participate in the Florida
1565 Retirement System as described in this subsection, no creditable
1566 service shall be earned under the Florida Retirement System for
1567 any period following the month that retirement contributions
1568 ceased to be reported. However, any such person may participate
1569 in the Florida Retirement System in the future if employed by a
1570 participating employer in a covered position.

1571 Section 10. The Legislature finds that a proper and
1572 legitimate state purpose is served when employees and retirees
1573 of the state and its political subdivisions, and the dependents,
1574 survivors, and beneficiaries of such employees and retirees, are
1575 extended the basic protections afforded by governmental

HB 7011

2013

1576 retirement systems. These persons must be provided benefits that
1577 are fair and adequate and that are managed, administered, and
1578 funded in an actuarially sound manner, as required by s. 14,
1579 Article X of the State Constitution and part VII of chapter 112,
1580 Florida Statutes. Therefore, the Legislature determines and
1581 declares that this act fulfills an important state interest.

1582 Section 11. (1) Effective upon this act becoming a law,
1583 the State Board of Administration and the Department of
1584 Management Services shall request, as soon as practicable, a
1585 determination letter from the United States Internal Revenue
1586 Service. If the Internal Revenue Service refuses to act upon a
1587 request for a determination letter, then a legal opinion from a
1588 qualified tax attorney or firm may be substituted for such
1589 letter.

1590 (2) If the board or the department receives notification
1591 from the United States Internal Revenue Service that this act or
1592 any portion of this act will cause the Florida Retirement
1593 System, or a portion thereof, to be disqualified for tax
1594 purposes under the Internal Revenue Code, then the portion that
1595 will cause the disqualification does not apply. Upon such
1596 notice, the state board and the department shall notify the
1597 presiding officers of the Legislature.

1598 Section 12. Except as otherwise expressly provided in this
1599 act and except for this section, which shall take effect upon
1600 this act becoming a law, this act shall take effect July 1,
1601 2013.