

By Senator Ring

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1                   A bill to be entitled  
2           An act relating to state financial matters; amending  
3           s. 121.4501, F.S.; defining the term "electronic  
4           means" and redefining the term "optional retirement  
5           program"; providing for excess account balances in the  
6           Public Employee Optional Retirement Program when an  
7           employee transfers to the defined benefit program and  
8           for the use of such excess balance; requiring the  
9           State Board of Administration to develop procedures to  
10          resolve complaints; providing for the use of records  
11          in resolving such complaints; clarifying the state  
12          board's rule authority with respect to the program;  
13          amending s. 121.4502, F.S.; establishing a forfeiture  
14          account in the Public Employee Retirement Program  
15          Trust Fund and providing for the use of funds in the  
16          account; amending s. 121.591, F.S.; permitting an  
17          application for benefits under the optional retirement  
18          program to be submitted by electronic means; amending  
19          s. 121.74, F.S.; revising the contribution rates for  
20          employers participating in the Florida Retirement  
21          System; amending s. 121.78, F.S.; exempting the  
22          Division of Retirement, the state board, and the  
23          third-party administrator from liability for market  
24          losses due to acts of God; amending s. 215.47, F.S.;  
25          authorizing moneys available for investment by the  
26          state board to be invested in certain federally tax-  
27          exempt bonds, notes, or obligations not subject to the  
28          federal alternative minimum tax; increasing the fund  
29          amount that may be invested in a foreign entity;

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30 amending s. 218.409, F.S.; providing for extending a  
31 moratorium on contributions to the Local Government  
32 Surplus Funds Trust Fund under certain circumstances;  
33 authorizing the state board to develop work products  
34 that are subject to trademark, copyright, or patent;  
35 providing an effective date.  
36

37 Be It Enacted by the Legislature of the State of Florida:  
38

39 Section 1. Subsection (2), paragraph (e) of subsection (4),  
40 subsection (6), and paragraphs (a) and (g) of subsection (8) of  
41 section 121.4501, Florida Statutes, are amended to read:

42 121.4501 Public Employee Optional Retirement Program.—

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

44 (a) "Approved provider" or "provider" means a private  
45 sector company that is selected and approved by the state board  
46 to offer one or more investment products or services to the  
47 ~~Public Employee~~ optional retirement program. The term includes a  
48 bundled provider that offers participants a range of  
49 individually allocated or unallocated investment products and  
50 may offer a range of administrative and customer services, which  
51 may include accounting and administration of individual  
52 participant benefits and contributions; individual participant  
53 recordkeeping; asset purchase, control, and safekeeping; direct  
54 execution of the participant's instructions as to asset and  
55 contribution allocation; calculation of daily net asset values;  
56 direct access to participant account information; periodic  
57 reporting to participants, at least quarterly, on account  
58 balances and transactions; guidance, advice, and allocation

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59 services directly relating to the provider's ~~its~~ own investment  
60 options or products, but only if the bundled provider complies  
61 with the standard of care of s. 404(a)(1)(A-B) of the Employee  
62 Retirement Income Security Act of 1974 (ERISA) and if providing  
63 such guidance, advice, or allocation services does not  
64 constitute a prohibited transaction under s. 4975(c)(1) of the  
65 Internal Revenue Code or s. 406 of ERISA, notwithstanding that  
66 such prohibited transaction provisions do not apply to the  
67 optional retirement program; a broad array of distribution  
68 options; asset allocation; and retirement counseling and  
69 education. Private sector companies include investment  
70 management companies, insurance companies, depositories, and  
71 mutual fund companies.

72 (b) "Average monthly compensation" means one-twelfth of  
73 average final compensation as defined in s. 121.021~~(24)~~.

74 (c) "Covered employment" means employment in a regularly  
75 established position as defined in s. 121.021~~(52)~~.

76 (d) "Defined benefit program" means the defined benefit  
77 program of the Florida Retirement System administered under part  
78 I of this chapter ~~"Department" means the Department of~~  
79 ~~Management Services.~~

80 (e)~~(e)~~ "Division" means the Division of Retirement within  
81 the department ~~of Management Services.~~

82 (f) "Electronic means" means by telephone, if the required  
83 information is received on a recorded line, or through Internet  
84 access, if the required information is captured online.

85 (g)~~(f)~~ "Eligible employee" means an officer or employee, as  
86 defined in s. 121.021, who:

87 1. Is a member of, or is eligible for membership in, the

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88 Florida Retirement System, including any renewed member of the  
 89 Florida Retirement System initially enrolled before July 1,  
 90 2010; or

91 2. Participates in, or is eligible to participate in, the  
 92 Senior Management Service Optional Annuity Program as  
 93 established under s. 121.055(6), the State Community College  
 94 System Optional Retirement Program as established under s.  
 95 121.051(2)(c), or the State University System Optional  
 96 Retirement Program established under s. 121.35.

97  
 98 The term does not include any member participating in the  
 99 Deferred Retirement Option Program established under s.  
 100 121.091(13), a retiree of a state-administered retirement system  
 101 initially reemployed on or after July 1, 2010, or a mandatory  
 102 participant of the State University System Optional Retirement  
 103 Program established under s. 121.35.

104 (h) ~~(g)~~ "Employer" means an employer, as defined in s.  
 105 121.021~~(10)~~, of an eligible employee.

106 (i) "Optional retirement program" or "optional program"  
 107 means the Public Employee Optional Retirement Program  
 108 established under this part.

109 (j) ~~(h)~~ "Participant" means an eligible employee who ~~elects~~  
 110 ~~to participate in the Public Employee Optional Retirement~~  
 111 ~~Program and enrolls in the~~ such optional program as provided in  
 112 subsection (4) or a terminated Deferred Retirement Option  
 113 Program participant as described in subsection (21).

114 ~~(i) "Public Employee Optional Retirement Program,"~~  
 115 ~~"optional program," or "optional retirement program" means the~~  
 116 ~~alternative defined contribution retirement program established~~

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117 ~~under this section.~~

118 (k)~~(j)~~ "Retiree" means a former participant of the ~~Florida~~  
119 ~~Retirement System Public Employee~~ optional retirement program  
120 who has terminated employment and has taken a distribution as  
121 provided in s. 121.591, except for a mandatory distribution of a  
122 de minimis account authorized by the state board.

123 ~~(k) "State board" or "board" means the State Board of~~  
124 ~~Administration.~~

125 ~~(l) "Trustees" means Trustees of the State Board of~~  
126 ~~Administration.~~

127 (l)~~(m)~~ "Vested" or "vesting" means the guarantee that a  
128 participant is eligible to receive a retirement benefit upon  
129 completion of the required years of service under the ~~Public~~  
130 ~~Employee~~ optional retirement program.

131 (4) PARTICIPATION; ENROLLMENT.—

132 (e) After the period during which an eligible employee had  
133 the choice to elect the defined benefit program or the ~~Public~~  
134 ~~Employee~~ optional retirement program, or the month following the  
135 receipt of the eligible employee's plan election, if sooner, the  
136 employee shall have one opportunity, at the employee's  
137 discretion, to choose to move from the defined benefit program  
138 to the ~~Public Employee~~ optional retirement program or from the  
139 ~~Public Employee~~ optional retirement program to the defined  
140 benefit program. Eligible employees may elect to move between  
141 Florida Retirement System programs only if they are earning  
142 service credit in an employer-employee relationship consistent  
143 with ~~the requirements under~~ s. 121.021(17)(b), excluding leaves  
144 of absence without pay. Effective July 1, 2005, such elections  
145 are ~~shall be~~ effective on the first day of the month following

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146 the receipt of the election by the third-party administrator and  
147 are not subject to the requirements regarding an employer-  
148 employee relationship or receipt of contributions for the  
149 eligible employee in the effective month, ~~except that the~~  
150 ~~employee must meet the conditions of the previous sentence~~ when  
151 the election is received by the third-party administrator. This  
152 paragraph is ~~shall be~~ contingent upon approval from the Internal  
153 Revenue Service for including the choice described herein within  
154 the programs offered by the Florida Retirement System.

155 1. If the employee chooses to move to the ~~Public Employee~~  
156 optional retirement program, the applicable provisions of this  
157 section shall govern the transfer.

158 2. If the employee chooses to move to the defined benefit  
159 program, the employee must transfer from his or her ~~Public~~  
160 ~~Employee~~ optional retirement program account, and from other  
161 employee moneys as necessary, a sum representing the present  
162 value of that employee's accumulated benefit obligation  
163 immediately following the time of such movement, determined  
164 assuming that attained service equals the sum of service in the  
165 defined benefit program and service in the ~~Public Employee~~  
166 optional retirement program. Benefit commencement occurs on the  
167 first date the employee is ~~would become~~ eligible for unreduced  
168 benefits, using the discount rate and other relevant actuarial  
169 assumptions that were used to value the ~~Florida Retirement~~  
170 ~~System~~ defined benefit plan liabilities in the most recent  
171 actuarial valuation. For any employee who, at the time of the  
172 second election, already maintains an accrued benefit amount in  
173 the defined benefit program plan, the then-present value of the  
174 ~~such~~ accrued benefit shall be deemed part of the required

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175 transfer amount ~~described in this subparagraph~~. The division  
176 shall ensure that the transfer sum is prepared using a formula  
177 and methodology certified by an enrolled actuary.

178 3. Notwithstanding subparagraph 2., an employee who chooses  
179 to move to the defined benefit program and who became eligible  
180 to participate in the ~~Public Employee~~ optional retirement  
181 program by reason of employment in a regularly established  
182 position with a state employer after June 1, 2002; a district  
183 school board employer after September 1, 2002; or a local  
184 employer after December 1, 2002, must transfer from his or her  
185 ~~Public Employee~~ optional retirement program account and, from  
186 other employee moneys as necessary, a sum representing the ~~that~~  
187 employee's actuarial accrued liability.

188 4. An employee's ~~Employees'~~ ability to transfer from the  
189 ~~Florida Retirement System~~ defined benefit program to the ~~Public~~  
190 ~~Employee~~ optional retirement program pursuant to paragraphs (a)-  
191 (d), and the ability of a for current employee ~~employees~~ to have  
192 an option to later transfer back into the defined benefit  
193 program under subparagraph 2., shall be deemed a significant  
194 system amendment. Pursuant to s. 121.031(4), any ~~such~~ resulting  
195 unfunded liability arising from actual original transfers from  
196 the defined benefit program to the optional program must ~~shall~~  
197 be amortized within 30 plan years as a separate unfunded  
198 actuarial base independent of the reserve stabilization  
199 mechanism defined in s. 121.031(3)(f). For the first 25 years, a  
200 ~~no~~ direct amortization payment may not ~~shall~~ be calculated for  
201 this base. During this 25-year period, the ~~such~~ separate base  
202 shall be used to offset the impact of employees exercising their  
203 second program election under this paragraph. It is the

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204 ~~legislative~~ intent of the Legislature that the actuarial funded  
205 status of the ~~Florida Retirement System~~ defined benefit program  
206 not be affected ~~plan is neither beneficially nor adversely~~  
207 ~~impacted~~ by such second program elections in any significant  
208 manner, after due recognition of the separate unfunded actuarial  
209 base. Following the ~~this~~ initial 25-year period, any remaining  
210 balance of the original separate base shall be amortized over  
211 the remaining 5 years of the required 30-year amortization  
212 period.

213 5. If the employee chooses to transfer from the optional  
214 retirement program to the defined benefit program, and retains  
215 an excess account balance in the optional program after  
216 satisfying the buy-in requirements under this paragraph, the  
217 excess may not be distributed until the member retires from the  
218 defined benefit program. The excess account balance may be  
219 rolled over to the defined benefit program and used to purchase  
220 service credit or upgrade creditable service in that program.

221 (6) VESTING REQUIREMENTS.—

222 (a)1. With respect to employer contributions paid on behalf  
223 of the participant to the ~~Public Employee~~ optional retirement  
224 program, plus interest and earnings thereon and less investment  
225 fees and administrative charges, a participant is ~~shall be~~  
226 vested after completing 1 work year, ~~as defined in s.~~  
227 ~~121.021(54)~~, with an employer, including any service while the  
228 participant was a member of the defined benefit ~~retirement~~  
229 program or an optional retirement program authorized under s.  
230 121.051(2)(c) or s. 121.055(6).

231 2. If the participant terminates employment before ~~prior to~~  
232 satisfying the vesting requirements, the nonvested accumulation



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233 must ~~shall~~ be transferred from the participant's accounts to the  
234 state board for deposit and investment by the state board in the  
235 suspense account created within ~~of~~ the Public Employee Optional  
236 Retirement Program Trust Fund ~~of the board~~. If the terminated  
237 participant is reemployed as an eligible employee within 5  
238 years, the state board shall transfer to the participant's  
239 account any amount ~~of the moneys~~ previously transferred from the  
240 participant's accounts to the suspense account ~~of the Public~~  
241 ~~Employee Optional Retirement Program Trust Fund~~, plus the actual  
242 earnings on such amount while in the suspense account.

243 (b)1. With respect to amounts transferred from the defined  
244 benefit program to the investment program, plus interest and  
245 earnings, and less investment fees and administrative charges, a  
246 participant shall be vested in the amount transferred ~~from the~~  
247 ~~defined benefit program, plus interest and earnings thereon and~~  
248 ~~less administrative charges and investment fees,~~ upon meeting  
249 the service requirements for the participant's membership class  
250 as set forth in s. 121.021(29). The third-party administrator  
251 shall account for such amounts for each participant. The  
252 division shall notify the participant and the third-party  
253 administrator when the participant has satisfied the vesting  
254 period for Florida Retirement System purposes.

255 2. If the participant terminates employment before ~~prior to~~  
256 satisfying the vesting requirements, the nonvested accumulation  
257 must ~~shall~~ be transferred from the participant's accounts to the  
258 state board for deposit and investment by the board in the  
259 suspense account created within ~~of~~ the Public Employee Optional  
260 Retirement Program Trust Fund ~~of the board~~. If the terminated  
261 participant is reemployed as an eligible employee within 5

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262 years, the state board shall transfer to the participant's  
263 account any amount ~~of the moneys~~ previously transferred from the  
264 participant's accounts to the suspense account ~~of the Public~~  
265 ~~Employee Optional Retirement Program Trust Fund~~, plus the actual  
266 earnings on such amount while in the suspense account.

267 (c) Any nonvested accumulations transferred from a  
268 participant's account to the suspense account shall be forfeited  
269 by the participant if the participant is not reemployed as an  
270 eligible employee within 5 years after termination.

271 (8) ADMINISTRATION OF PROGRAM.—

272 (a) The Public Employee Optional Retirement Program shall  
273 be administered by the state board and affected employers. The  
274 board may ~~is authorized to~~ require oaths, by affidavit or  
275 otherwise, and acknowledgments from persons in connection with  
276 the administration of its statutory duties and responsibilities  
277 for this program under this chapter. An ~~No~~ oath, by affidavit or  
278 otherwise, may not shall be required of an employee participant  
279 at the time of enrollment election. Acknowledgment of an  
280 employee's election to participate in the program shall be no  
281 greater than necessary to confirm the employee's election. The  
282 state board shall adopt rules to carry out its statutory duties  
283 with respect to administering the optional retirement program,  
284 including, but not limited to, establishing the roles ~~role~~ and  
285 responsibilities of affected state, local government, and  
286 education-related employers, the state board, the department,  
287 and third-party contractors ~~in administering the Public Employee~~  
288 ~~optional retirement program~~. The department shall adopt rules  
289 necessary to administer ~~implement~~ the optional program in  
290 coordination with the defined benefit ~~retirement~~ program and the

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291 disability benefits available under the optional program.

292 (g) The state board shall develop procedures to receive and  
293 resolve participant complaints against the program, the third-  
294 party administrator, or any program vendor or provider and shall  
295 resolve any conflict between the third-party administrator and  
296 an approved provider if ~~when~~ such conflict threatens the  
297 implementation or administration of the program or the quality  
298 of services to employees, and may resolve any other conflicts.  
299 The third-party administrator shall retain all participant  
300 records for at least 5 years for use in resolving any  
301 participant conflicts. The state board, the third-party  
302 administrator, or a provider is not required to produce  
303 documentation or an audio recording to justify action taken with  
304 regard to a participant if the action occurred 5 or more years  
305 before the complaint is submitted to the board. It is presumed  
306 that all action taken 5 or more years before the complaint is  
307 submitted was taken at the request of the participant and with  
308 the participant's full knowledge and consent. To overcome this  
309 presumption, the participant must present documentary evidence  
310 or an audio recording demonstrating otherwise.

311 Section 2. Subsection (3) is added to section 121.4502,  
312 Florida Statutes, to read:

313 121.4502 Public Employee Optional Retirement Program Trust  
314 Fund.—

315 (3) A forfeiture account shall be created within the Public  
316 Employee Optional Retirement Program Trust Fund to hold the  
317 assets derived from the forfeiture of benefits by participants.  
318 Pursuant to a private letter ruling from the Internal Revenue  
319 Service, the forfeiture account may be used only for paying

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320 expenses of the Public Employee Optional Retirement Program and  
321 reducing future employer contributions to the program.  
322 Consistent with Rulings 80-155 and 74-340 of the Internal  
323 Revenue Service, unallocated reserves within the forfeiture  
324 account must be used as quickly and as prudently as possible  
325 considering the state board's fiduciary duty. Expected  
326 withdrawals from the account must endeavor to reduce the account  
327 to zero each fiscal year.

328 Section 3. Paragraph (b) of subsection (1) of section  
329 121.591, Florida Statutes, is amended to read:

330 121.591 Benefits payable under the Public Employee Optional  
331 Retirement Program of the Florida Retirement System.—Benefits  
332 may not be paid under this section unless the member has  
333 terminated employment as provided in s. 121.021(39)(a) or is  
334 deceased and a proper application has been filed in the manner  
335 prescribed by the state board or the department. The state board  
336 or department, as appropriate, may cancel an application for  
337 retirement benefits when the member or beneficiary fails to  
338 timely provide the information and documents required by this  
339 chapter and the rules of the state board and department. In  
340 accordance with their respective responsibilities as provided  
341 herein, the State Board of Administration and the Department of  
342 Management Services shall adopt rules establishing procedures  
343 for application for retirement benefits and for the cancellation  
344 of such application when the required information or documents  
345 are not received. The State Board of Administration and the  
346 Department of Management Services, as appropriate, are  
347 authorized to cash out a de minimis account of a participant who  
348 has been terminated from Florida Retirement System covered

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349 employment for a minimum of 6 calendar months. A de minimis  
350 account is an account containing employer contributions and  
351 accumulated earnings of not more than \$5,000 made under the  
352 provisions of this chapter. Such cash-out must either be a  
353 complete lump-sum liquidation of the account balance, subject to  
354 the provisions of the Internal Revenue Code, or a lump-sum  
355 direct rollover distribution paid directly to the custodian of  
356 an eligible retirement plan, as defined by the Internal Revenue  
357 Code, on behalf of the participant. If any financial instrument  
358 issued for the payment of retirement benefits under this section  
359 is not presented for payment within 180 days after the last day  
360 of the month in which it was originally issued, the third-party  
361 administrator or other duly authorized agent of the State Board  
362 of Administration shall cancel the instrument and credit the  
363 amount of the instrument to the suspense account of the Public  
364 Employee Optional Retirement Program Trust Fund authorized under  
365 s. 121.4501(6). Any such amounts transferred to the suspense  
366 account are payable upon a proper application, not to include  
367 earnings thereon, as provided in this section, within 10 years  
368 after the last day of the month in which the instrument was  
369 originally issued, after which time such amounts and any  
370 earnings thereon shall be forfeited. Any such forfeited amounts  
371 are assets of the Public Employee Optional Retirement Program  
372 Trust Fund and are not subject to the provisions of chapter 717.

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

375 (b) If a participant elects to receive his or her benefits  
376 upon termination of employment as defined in s. 121.021, the  
377 participant must submit a written application or an application

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378 by electronic means ~~an equivalent form~~ to the third-party  
379 administrator indicating his or her preferred distribution date  
380 and selecting an authorized method of distribution as provided  
381 in paragraph (c). The participant may defer receipt of benefits  
382 until he or she chooses to make such application, subject to  
383 federal requirements.

384 Section 4. Section 121.74, Florida Statutes, is amended to  
385 read:

386 121.74 Administrative and educational expenses.—In addition  
387 to contributions required under s. 121.71, effective July 1,  
388 2010, through June 30, 2014, employers participating in the  
389 Florida Retirement System shall contribute an amount equal to  
390 0.03 ~~0.05~~ percent of the payroll reported for each class or  
391 subclass of Florida Retirement System membership; effective July  
392 1, 2014, the contribution rate shall be 0.04 percent of the  
393 payroll reported for each class or subclass of membership. ~~The~~  
394 ~~which~~ amount contributed shall be transferred by the Division of  
395 Retirement from the Florida Retirement System Contributions  
396 Clearing Trust Fund to the State Board of Administration's  
397 Administrative Trust Fund to offset the costs of administering  
398 the optional retirement program and the costs of providing  
399 educational services to participants in the defined benefit  
400 program and the optional retirement program. Approval of the  
401 ~~trustees of the State Board of Administration~~ is required before  
402 ~~prior to~~ the expenditure of these funds. Payments for third-  
403 party administrative or educational expenses shall be made only  
404 pursuant to the terms of the approved contracts for such  
405 services.

406 Section 5. Subsection (3) of section 121.78, Florida

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407 Statutes, is amended to read:

408 121.78 Payment and distribution of contributions.—

409 (3) (a) Employer contributions and accompanying payroll data  
410 received after the 5th working day of the month are ~~shall be~~  
411 considered late. The employer shall be assessed by the Division  
412 of Retirement a penalty of 1 percent of the contributions due  
413 for each calendar month or part thereof that the contributions  
414 or accompanying payroll data are late. Proceeds from the 1-  
415 percent assessment against contributions made on behalf of  
416 participants of the defined benefit program shall be deposited  
417 in the Florida Retirement System Trust Fund, and proceeds from  
418 the 1-percent assessment against contributions made on behalf of  
419 participants of the optional retirement program shall be  
420 transferred to the third-party administrator for deposit into  
421 participant accounts, as provided in paragraph (b).

422 (b) If contributions made by an employer on behalf of  
423 participants of the optional retirement program or accompanying  
424 payroll data are not received within the calendar month they are  
425 due, including, but not limited to, contribution adjustments as  
426 a result of employer errors or corrections, and if that  
427 delinquency results in market losses to participants, the  
428 employer shall reimburse each participant's account for market  
429 losses resulting from the late contributions. If a participant  
430 has terminated employment and taken a distribution, the  
431 participant is responsible for returning any excess  
432 contributions erroneously provided by employers, adjusted for  
433 any investment gain or loss incurred during the period such  
434 excess contributions were in the participant's ~~Public Employee~~  
435 ~~Optional Retirement Program~~ account. The state board of

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436 ~~Administration~~ or its designated agent shall communicate to  
437 terminated participants any obligation to repay such excess  
438 contribution amounts. However, the state board ~~of~~  
439 ~~Administration~~, its designated agents, the Public Employee  
440 Optional Retirement Program Trust Fund, the department ~~of~~  
441 ~~Management Services~~, or the Florida Retirement System Trust Fund  
442 may ~~shall~~ not incur any loss or gain as a result of an  
443 employer's correction of such excess contributions. The third-  
444 party administrator, hired by the state board pursuant to s.  
445 121.4501(8), shall calculate the market losses for each affected  
446 participant. If ~~When~~ contributions made on behalf of  
447 participants of the optional retirement program or accompanying  
448 payroll data are not received within the calendar month due, the  
449 employer shall also pay the cost of the third-party  
450 administrator's calculation and reconciliation adjustments  
451 resulting from the late contributions. The third-party  
452 administrator shall notify the employer of the results of the  
453 calculations and the total amount due from the employer for such  
454 losses and the costs of calculation and reconciliation. The  
455 employer shall remit to the Division of Retirement the amount  
456 due within 30 ~~10~~ working days after the date of the penalty  
457 notice sent by the division. The division shall transfer that  
458 ~~said~~ amount to the third-party administrator, which ~~who~~ shall  
459 deposit proceeds from the 1-percent assessment and from  
460 individual market losses into participant accounts, as  
461 appropriate. The state board may ~~is authorized to~~ adopt rules to  
462 administer ~~implement~~ the provisions regarding late  
463 contributions, late submission of payroll data, the process for  
464 reimbursing participant accounts for resultant market losses,



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465 and the penalties charged to the employers.

466 (c) Delinquency fees may be waived by the Division of  
467 Retirement, with regard to defined benefit program  
468 contributions, and by the state board ~~of Administration~~, with  
469 regard to optional retirement program contributions, only if  
470 ~~when~~, in the opinion of the division or the board, as  
471 appropriate, exceptional circumstances beyond the employer's  
472 control prevented remittance by the prescribed due date  
473 notwithstanding the employer's good faith efforts to effect  
474 delivery. Such a waiver of delinquency may be granted an  
475 employer only once ~~one time~~ each state fiscal year.

476 (d) If contributions made by an employer on behalf of  
477 participants in the optional retirement program are delayed in  
478 posting to participant accounts due to acts of God beyond the  
479 control of the Division of Retirement, the state board, or the  
480 third-party administrator, as applicable, market losses  
481 resulting from the late contributions are not payable to the  
482 participants.

483 Section 6. Paragraph (o) is added to subsection (1) of  
484 section 215.47, Florida Statutes, and subsection (5) of that  
485 section is amended, to read:

486 215.47 Investments; authorized securities; loan of  
487 securities.—Subject to the limitations and conditions of the  
488 State Constitution or of the trust agreement relating to a trust  
489 fund, moneys available for investments under ss. 215.44-215.53  
490 may be invested as follows:

491 (1) Without limitation in:

492 (o) Bonds, notes, or obligations described in 26 U.S.C. s.  
493 149(g) (3) (B), if investment in such bonds, notes, or obligations

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494 is necessary in order to comply with covenants in documents or  
 495 proceedings relating to bonds issued pursuant to s. 215.555(6).  
 496 Investments made pursuant to this paragraph may be purchased  
 497 only from the proceeds of bonds issued pursuant to s. 215.555(6)  
 498 and must be authorized under documents or proceedings relating  
 499 to such bonds.

500 (5) With no more than 35 ~~25~~ percent of any fund in  
 501 corporate obligations and securities of any kind of a foreign  
 502 corporation or a foreign commercial entity having its principal  
 503 office located in any country other than the United States ~~of~~  
 504 ~~America~~ or its possessions or territories, not including United  
 505 States dollar-denominated securities listed and traded on a  
 506 United States exchange which are a part of the ordinary  
 507 investment strategy of the board.

508 Section 7. Paragraph (a) of subsection (8) of section  
 509 218.409, Florida Statutes, is amended to read:

510 218.409 Administration of the trust fund; creation of  
 511 advisory council.—

512 (8) (a) The principal, and any part thereof, of each ~~and~~  
 513 ~~every~~ account constituting the trust fund is ~~shall be~~ subject to  
 514 payment at any time from the moneys in the trust fund. However,  
 515 the executive director may, in good faith, on the occurrence of  
 516 an event that has a material impact on liquidity or operations  
 517 of the trust fund, for 48 hours limit contributions to or  
 518 withdrawals from the trust fund to ensure that the board can  
 519 invest moneys entrusted to it in exercising its fiduciary  
 520 responsibility. Such action must ~~shall~~ be immediately disclosed  
 521 to all participants, the trustees, the Joint Legislative  
 522 Auditing Committee, the Investment Advisory Council, and the

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523 Participant Local Government Advisory Council. The trustees  
524 shall convene an emergency meeting as soon as practicable from  
525 the time the executive director has instituted such measures and  
526 review the necessity of those measures. If the trustees are  
527 unable to convene an emergency meeting before the expiration of  
528 the 48-hour moratorium on contributions and withdrawals, the  
529 moratorium may be extended by the executive director until the  
530 trustees can meet to review the necessity for the moratorium. If  
531 the trustees agree with such measures, the trustees shall vote  
532 to continue the measures for up to an additional 15 days. The  
533 trustees must convene and vote to continue any such measures  
534 before ~~prior to~~ the expiration of the time limit set, but in no  
535 case may the time limit set by the trustees exceed 15 days.

536 Section 8. Trademarks, copyrights, or patents.—The State  
537 Board of Administration, on behalf of the Florida Retirement  
538 System or any other trust fund under its jurisdiction, may  
539 develop work products that are subject to trademark, copyright,  
540 or patent statutes. The board may, in its own name or through  
541 the growth initiative program created pursuant to s. 215.47(7),  
542 Florida Statutes, or any other program developed with or for the  
543 board:

544 (1) Perform all things necessary to secure letters of  
545 patent, copyrights, or trademarks on any work products and  
546 enforce its rights therein.

547 (2) License, lease, assign, or otherwise give written  
548 consent to any person for the manufacture or use of its work  
549 products on a royalty basis or for such other consideration as  
550 the board deems proper.

551 (3) Take any action necessary, including legal action, to

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552 protect its work products against improper or unlawful use of  
553 infringement.

554 (4) Enforce the collection of any sums due the board for  
555 the manufacture or use of its work products by any other party.

556 (5) Sell any of its work products and execute all  
557 instruments necessary to consummate any such sale.

558 (6) Do all other acts necessary and proper for the  
559 execution of powers and duties provided under this section.

560 Section 9. This act shall take effect July 1, 2010.