

RULEMAKING AUTHORITY: 374.976(2) FS.
 LAW IMPLEMENTED: 374.976(1)-(3) FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
 DATE AND TIME: November 15, 2011, 11:00 a.m.
 PLACE: The FIND District Office, 1314 Marcinski Road, Jupiter, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number: (561)627-3386
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.:	RULE TITLES:
69A-58.001	Administration and General Requirements
69A-58.002	Scope: New Construction and Existing Facilities
69A-58.003	Definitions
69A-58.0031	New Construction
69A-58.004	Firesafety Inspections
69A-58.0041	Charter Schools
69A-58.005	Serious Life Safety Hazards
69A-58.006	Vacant and Abandoned Buildings
69A-58.007	Counties, Municipalities, and Special Districts Having Firesafety Responsibilities, Without Firesafety Inspectors
69A-58.008	Standards and Requirements for Existing Buildings; Exceptions to Rule Chapter 69A-60, the Florida Fire Prevention Code
69A-58.0081	Means of Egress
69A-58.0082	Relocatable Buildings
69A-58.0083	Protection from Hazards
69A-58.0084	Seclusion Time Out Rooms
69A-58.009	Florida Firesafety School Evaluation System
69A-58.010	Other Applicable Codes and Standards

PURPOSE AND EFFECT: The proposed amendments will update the rules in Chapter 69A-58, F.A.C., and implement the changes made by Chapter 2011-79, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: Fire safety in educational facilities.

RULEMAKING AUTHORITY: 663.01(1), (7), 1013.12(1) FS.
 LAW IMPLEMENTED: 663.01(7), 633.022, 633.025, 1013.12, 1013.371, 1013.38 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
 DATE AND TIME: November 22, 2011, 10:00 a.m.
 PLACE: State Fire Marshall Conference Room, The Atrium Building, 325 John Knox Road, Tallahassee, FL
 DATE AND TIME: November 23, 2011, 10:00 a.m.
 PLACE: Florida State Fire College, Auditorium, 11655 N.W. Gainesville Road, Ocala, FL
 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Charles Frank at (850)413-3747 or Charles.Frank@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Charles Frank, Bureau of Fire Prevention, Division of State Fire Marshal, 200 E. Gaines Street, Tallahassee, FL 32399-0342 (850)413-3747 or Charles.Frank@MyFloridaCFO.com. A copy of the text of the proposed rules is posted on the Department's website at www.MyFloridaCFO.com/LegalServices/ruleHearing/.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**Section II
Proposed Rules**

DEPARTMENT OF CORRECTIONS

RULE NO.:	RULE TITLE:
33-601.715	Visiting Application Initiation Process

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to incorporate forms into the rule that were previously located in Rule 33-601.737, F.A.C., and to clarify in Form DC6-111B what are appropriate items for visitors.

SUMMARY: The proposed rule incorporates forms that were previously located in Rule 33-601.737, F.A.C., and clarifies in Form DC6-111B what are appropriate items for visitors.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Based on the fact that the rule is only being amended to incorporate forms in a different location and provide general clarification to visitors, the change will not have an impact on small business or the private sector and the rule therefore is not expected to require legislative ratification.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.23 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.715 Visiting Application Initiation Process.

(1) No change.

(2) The inmate shall be given up to fifteen copies of Form DC6-111A, the Request for Visiting Privileges, ~~Form DC6-111A~~, and Form DC6-111B, Visitor Information Summary, ~~Form DC6-111B~~, within 24 hours after arrival at his or her permanent facility. Forms DC6-111A and DC6-111B are hereby incorporated by reference in Rule 33-601.737, F.A.C. Copies of these forms are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of these forms is October 1, 2011. The inmate shall be responsible for sending the forms to each family member or friend twelve years of age or older, whom the inmate wishes to be placed in his or her approved visiting record. Minors eleven years of age and younger are not required to submit a ~~Request for Visiting Privileges, Form DC6-111B~~, until they reach 12 years of age.

(a) No change.

(b) The prospective visitor shall be required to complete a Form DC6-111A, Request for Visiting Privileges, by filling in each line or inserting "NA" (not applicable) where appropriate.

(3) through (4) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History--New 11-18-01, Amended 5-27-02, 9-29-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Russell Hosford, Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 1, 2011

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE NOS.:	RULE TITLES:
60S-1.004	Participation
60S-1.0045	Renewed Membership in the Regular Class and Senior Management Service Class
60S-1.005	Special Risk Class; Legislative Intent and Procedures
60S-1.0051	Criteria for Special Risk Membership – Law Enforcement
60S-1.0052	Criteria for Special Risk Membership – Firefighters
60S-1.0053	Criteria for Special Risk Membership – Correctional Officers
60S-1.00535	Criteria for Special Risk Membership – Emergency Medical Technicians and Paramedics
60S-1.0054	Special Risk Administrative Support Class
60S-1.0055	Senior Management Service Class
60S-1.007	Admission of Cities, Independent Special Districts, Metropolitan Planning Organizations, Public Charter Schools and Public Charter Technical Career Centers to the Florida Retirement System

PURPOSE AND EFFECT: Rule Chapter 60S-1, F.A.C., is being amended to incorporate statutory changes up through the 2010 Legislative session, delete obsolete language and make technical corrections.

SUMMARY: The amendments set forth the available Florida Retirement System (FRS) plan choices as provided by statute and as administered by the Florida State Board of Administration (SBA) and incorporates by reference ten SBA plan election forms; adds references to metropolitan planning organizations, public charter schools and public charter technical career centers which are now statutorily permitted to participate in the FRS; incorporates by reference one new Division of Retirement form, two revised Division forms and five existing Division forms previously incorporated by reference under Rule 60S-9.001, F.A.C.; adds references to the closing of renewed membership to retirees of a state administered retirement systems who are initially reemployed

on or after July 1, 2010; makes technical corrections to a regularly established position in a state agency; clarifies a regularly established position and a temporary position for a local agency, expands Special Risk Class membership criteria in accordance with statute and expands compulsory membership in the Elected Officers' Class in accordance with statute.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

No State of Estimated Regulatory Cost was prepared. The agency has determined that this rule shall not have an effect on small businesses as defined by Section 288.703, Florida Statutes, nor on small counties or small cities as defined by Section 120.52, Florida Statutes. Any person who to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimate regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

Not required because there are no adverse impacts on economic growth, business competitiveness or regulatory costs of more than \$1M in the aggregate within five years of implementation.

RULEMAKING AUTHORITY: 121.031, 121.0515, 121.052(14), 121.4501(8)(a) FS.

LAW IMPLEMENTED: 27.701, 112.0515, 112.25-.31, 121.011, 121.021, 121.031, 121.051, 121.0511, 121.0515, 121.052, 121.053, 121.055, 121.081, 121.091, 121.122, 121.23, 121.35, 121.355, 121.4501, 240.3195, 1012.875 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 4, 2011, 10:00 a.m., ET

PLACE: Division of Retirement of the Department of Management Services, Director's Conference Room, Suite 208, 1317 Winewood Blvd., Bldg 8, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706

THE FULL TEXT OF THE PROPOSED RULES IS:

60S-1.004 Participation.

(1) Compulsory Membership – Participation in the Florida Retirement System (FRS) shall be compulsory as a condition of employment for all officers and employees enumerated in

the following paragraphs who are filling a regularly established position as described in subsection 60S-1.004(4), F.A.C., and defined in Rule 60S-6.001, F.A.C., (exceptions are provided in subsection 60S-1.004(2) or (3), F.A.C.). Such officers and employees shall participate in one of the five Florida Retirement System classes of membership. Members shall be assigned to the Regular Class unless eligible or required by virtue of the position held to be in the Special Risk Class as provided in Rule 60S-1.005, F.A.C., the Special Risk Administrative Support Class as provided in Rule 60S-1.0054, F.A.C., the Elected Officers' Class as provided in Rule 60S-1.0055, F.A.C., or the Senior Management Service Class as provided in Rule 60S-1.0057, F.A.C. All such officers or employees initially enrolled into the FRS or initially enrolled as renewed members of the FRS as provided in Section 121.122 and 121.053, F.S., shall be enrolled, by default, into the defined benefit plan of the FRS more commonly referred to as the FRS Pension Plan as provided in Part I of Chapter 121, F.S., and may, by the last business day of the fifth month following his or her month of hire as provided in Section 121.4501, F.S., choose to elect enrollment into the defined contribution plan of the FRS more commonly referred to as the FRS Investment Plan as provided in Part II of Chapter 121, Florida Statutes. Such election may be filed with the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., using one of the following State Board of Administration forms applicable to his or her membership class in the Florida Retirement System. The forms are: Form ELE-1-EZ (Rev. 07-11), an EZ Retirement Plan Enrollment form which is only for Regular Class, Special Risk Class, and Special Risk Administrative Support Class members; Form ELE-1 (Rev. 10-11), a General Retirement Plan Enrollment form for Regular Class, Special Risk Class, and Special Risk Class Administrative Support Class members; Form EOC-1 (Rev. 10-11), a form for Elected Officers' Class members; Form OCC-1 (Rev. 10-11), a form for members eligible for participation in the State Community College Optional Retirement Program; Form ORP-16 (Rev. 10-11), a form for members eligible for participation in the State University System Optional Retirement Plan; Form SMS-1 (Rev. 10-11), a form for members eligible for participation in the Senior Management Service Optional Annuity Plan; and Form SMS-3 (Rev. 10-11), a form for members eligible for participation in a local retirement plan in lieu of the Senior Management Service Class all of which are herein incorporated by reference. The form appropriate to the employee's membership class is available in the enrollment package which is sent to the employee's address of record after the employee's first reported payroll or by accessing the Division's Web site (<http://FRS.MyFlorida.com>); or by calling toll free 1(866)446-9377, or for the hearing impaired 1(888)429-2160, or alternatively the employee may choose to submit a separate document in lieu of the form to file their election with the Plan Choice Administrator which at minimum shall provide the

employee's name, social security number and his or her plan election. After the period of initial FRS plan choice has expired, or the month following the receipt of the eligible employee's plan election, if sooner, the employee's plan choice is irrevocable except that the employee shall have one opportunity, at the employee's discretion, to change plans as provided in Section 121.4501, F.S. Such election to change FRS plans may be made using one of the following State Board of Administration forms for ease of use for employees in the several membership classes of the Florida Retirement System. These forms are: Form ELE-2 (Rev. 10-11), 2nd Election Retirement Plan Enrollment Form; and Form ELE-2-EZ (Rev. 07-11), 2nd Election Retirement Plan Enrollment Form both of which are here in incorporated by reference. These forms can be obtained by accessing the Division's Web site (<http://FRS.MyFlorida.com>); or by calling toll free 1(866)446-9377, or for the hearing impaired 1(888)429-2160, or alternatively the employee may choose to submit a separate document in lieu of the form to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election.

(a) All officers and employees within any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch, department, board, district school board, or participating independent special district, ~~or~~ municipality of the state, metropolitan planning organization, public charter school or public charter technical career center.

(b) All officers and employees who were in the employ of an employer on December 1, 1970 but who were not eligible to participate in the existing systems except those employees who meet the criteria for optional membership as provided in subsection 60S-1.004(2) or prohibited membership as provided in subsection 60S-1.004(3), F.A.C.

(c) All members of the existing systems who elect to transfer to the Florida Retirement System in accordance with the procedures established by the Administrator. Any member of one of the existing systems who was on a noncreditable leave-of-absence under his or her existing system or the entire period of leave-of-absence was not claimed for retirement purposes, shall be a compulsory member of the Florida Retirement System unless the member's account was not adjusted prior to July 1, 1978 when the statutes were amended as provided in paragraph 60S-1.004(3)(b), F.A.C.

(d) Any member, as provided in paragraph 60S-1.004(2)(f), F.A.C., who fails within 6 months of reemployment to make written notification to the Division of his or her intention to remain in the existing system.

(e) Officers and employees of a covered group of a city, independent or special district, metropolitan planning organization, public charter school or public charter technical

career center which is approved for participation in the Florida Retirement System. Such officers and employees shall be compulsory members as follows:

1. If the participating city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center did not have a local retirement system at the time it was approved for participation in the Florida Retirement System, all present and future officers and employees shall be covered.

2. If the participating city, independent or special district, metropolitan planning organization, participating public charter school or public charter technical career center had a local retirement system at the time it was approved for membership in the Florida Retirement System, all officers and employees who elect to transfer to the Florida Retirement System shall be covered and all future officers and employees shall be covered.

(f) All officers or employees of a covered group of a city or independent special district, who are members of a local retirement system established in accordance with Chapter 175 or 185, F.S., may elect coverage under the Florida Retirement System by a majority of such officers and employees in a referendum held for that purpose. Upon establishing membership in the Florida Retirement System for the covered group, all officers or employees hired thereafter shall be compulsory members of the FRS. Existing officers and employees shall be subject to paragraph 60S-1.004(2)(h), F.A.C.

(g)(f) All former members of existing systems who terminated employment and received a full or partial refund of retirement contributions; and

1. Returns to covered employment after November 30, 1970 and prior to July 1, 1988; or

2. Returns to covered employment on or after July 1, 1988 after terminating all employment relationships as provided in subsection 60S-6.001(69), F.A.C., subsection 60S-6.001(62), F.A.C., and remaining terminated from all covered employment for at least 12 months.

(g) All officers or employees of a covered group of a city or special district who are members of a local retirement system established in accordance with Chapter 175 or 185, F.S., may elect coverage under the Florida Retirement System by a majority of such officers and employees in a referendum held for that purpose. Upon establishing membership in the Florida Retirement System for the covered group, all officers or employees hired thereafter shall be compulsory members of the FRS. Existing officers and employees shall be subject to paragraph 60S-1.004(2)(h), F.A.C.

(h) All blind or partially-sighted persons who are employed or licensed by the Bureau of Blind Services as vending facility operators on or after December 1, 1970 and prior to July 1, 1996. Such persons who were members during that period shall remain compulsory members of the Florida

Retirement System for as long as the member is a vending facility operator, unless such member makes an irrevocable election on or before July 31, 1996, to withdraw from the Florida Retirement System or unless retirement contributions are not paid as required in Rule 60S-3.003, F.A.C.

(i) All regular receivership employees of the Division of Rehabilitation and Liquidation, Department of Insurance.

(j) All members who were employed with a city, independent special district, or hospital when such employer entity revoked its participation in the Florida Retirement System on January 1, 1996, as provided by Section 121.0511, or 121.051(2)(b)5., F.S. Such members shall remain as members of the Florida Retirement System for as long as they are continuously employed with that same employer entity.

(k) Effective July 1, 1996, the following employees of a dependent governmental entity within the jurisdiction of an independent participating agency that has failed to report such employees for membership in the Florida Retirement System as required under this chapter, shall become compulsory members of the Florida Retirement System:

1. Employees that were hired on or after July 1, 1996;

2. Employees as of June 30, 1996, who were not participating in a retirement plan provided by the dependent entity. Any such employees who, on June 30, 1996, were participating in a retirement plan provided by the dependent entity shall elect, in writing, to participate in the Florida Retirement System or to remain in the retirement plan provided by the dependent entity, effective July 1, 1996.

(l) All employees of a public charter school or charter technical career center, the governing body of which has elected to participate in the Florida Retirement System.

(2) Optional Membership – Participation in the Florida Retirement System shall be optional for all officers and employees enumerated in the following paragraphs who are filling a regularly established position as described in subsection 60S-1.004(4) and defined in Rule 60S-6.001, F.A.C.

(a) All members of the State and County Officers and Employees' Retirement System, the Teachers' Retirement System, and the Highway Patrol Pension System, when membership in the Florida Retirement System is made available by act of the State Legislature which has occurred during the following periods:

1. October 15, 1970 through November 30, 1970; membership effective December 1, 1970.

2. April 15, 1971 through May 31, 1971; membership effective June 1, 1971.

3. April 15, 1972 through June 30, 1972; membership effective July 1, 1972, retroactive to December 1, 1970.

4. September 1, 1974 through November 30, 1974; membership effective January 1, 1975.

5. September 1, 1978 through November 30, 1978; membership effective January 1, 1979.

6. January 2, 1982 through May 31, 1982; membership effective July 1, 1982.

7. January 1, 1991 through May 29, 1991, for those members who were not employed in a covered position or on a creditable leave-of-absence during the periods described in 1. through 6. above, and were never reemployed before July 2, 1978 or after June 29, 1983 when transfer upon reemployment was allowed; membership effective July 1, 1991.

(b) Members of the existing systems who were not given an opportunity to transfer to the Florida Retirement System because they were on a creditable leave-of-absence under their existing retirement system. Such members shall be given an opportunity to transfer to the Florida Retirement System immediately upon termination of their leave of absence and return to duty, and shall indicate on the application their election to remain in the existing system or transfer to the Florida Retirement System.

(c) 1. Employees filling a position classified as eligible for membership in the State University System Optional Retirement Program (SUSORP) shall by default be enrolled prospectively into the SUSORP upon such employment except that participants of the FRS Investment Plan who fill such positions shall not be prospectively enrolled into the SUSORP unless the position is a mandatory SUSORP position as provided in Section 121.051(1)(a), F.S. for the State University System and who choose membership in the Florida Retirement System within 90 days of employment, as provided in Section 121.35, F.S., and Chapter 60U, F.A.C.

2. Employees enrolled by default into the SUSORP, except for those filling a mandatory SUSORP position, may choose between membership in the Florida Retirement System or participation in the SUSORP within 90 days of employment by filing such election in writing with the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., not later than 4:00 p.m. Eastern Time on the 90th day from the employee's date of hire into the SUSORP eligible position in accordance with Sections 121.35 and 121.4501, F.S., and Rule 19-11.006, F.A.C., and may file such election using the State Board of Administration's designed form for ease of use; Form ORP-16, State University System Optional Retirement Program (SUSORP) Retirement Plan Enrollment Form adopted by reference in subsection (1), or alternatively the employee may choose to submit a separate document in lieu of Form ORP-16, to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election.

3. Employees who file an election to participate in the SUSORP, other than mandatory SUSORP participants who must elect this option, must also execute a contract with a SUSORP provider company no later than the 90th day from the employee's date of hire into the SUSORP eligible position in accordance with Sections 121.35 and 121.4501, F.S., and Rule 19-11.006, F.A.C., or shall by default have membership in the

FRS commencing with the date of employment into the SUSORP-eligible position. Mandatory SUSORP participants must execute a contract with a SUSORP provider company otherwise contributions will not be allocated to a SUSORP provider company.

4. Employees enrolled by default in the SUSORP, except for mandatory SUSORP participants, who do not elect SUSORP participation and/or who do not execute a provider contract within the 90-day period as provided in sub-paragraph 2., shall by default have membership in the FRS Pension Plan commencing with the date of employment into the SUSORP-eligible position.

5. An election to participate in SUSORP is irrevocable for as long as an employee remains in the SUSORP-eligible position.

(d) Employees filling a position classified as eligible for participation in the Senior Management Service Optional Annuity Program as provided in Section 121.055, F.S., and Chapter 60V, F.A.C., shall within the 90-day period of the commencement of such employment have the option of prospectively participating in the Senior Management Service Optional Annuity Program (SMSOAP) in lieu of participating in the FRS as provided in Sections 121.055 and 121.4501, F.S.

1. An election to participate in the SMSOAP, must be made in writing to the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.S., no later than the 90th day after the date of hire which requires the selection to be made not later than 4:00 p.m. Eastern Time on the 90th day from the employee's date of hire in accordance with Sections 121.055 and 121.4501, F.S., and Rule 19-11006, F.A.C.

2. SMSOAP-eligible employees who wish to participate in the SMSOAP, may file their election in writing to the Plan Choice Administrator using the State Board of Administration designed form for ease of use; Form SMS-1, State Senior Management Service Employees Retirement Plan Enrollment Form, adopted by reference in subsection (1), or alternatively the employee may choose to submit a separate document in lieu of Form SMS-1, to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election.

3. An election to participate in SMSOAP is irrevocable for as long as an employee remains in the SMSOAP-eligible position except as provided in Section 121.055(6)(c)5., F.S.

(e) Any elected officer eligible for membership in the Elected Officers' Class as provided in paragraph 60S-1.0055(2)(b), F.A.C., may within the first six months of assuming office choose to:

1. Withdraw from the Florida Retirement System altogether, which means that the employee will not participate in the Florida Retirement System or any retirement plan offered by his or her employer; that the effective date of the

election will be the date he or she assumed elected office; and that the employee can rejoin the Elected Officers' Class during a term of office upon written request.

2. Join the Senior Management Service Class of the FRS in lieu of participating in the Elected Officers' Class of the FRS as provided in Section 121.055, F.S., wherein:

a. State elected officers who elect to participate in the Senior Management Service Class would be eligible to elect to participate prospectively in the Senior Management Optional Annuity Program in lieu of the FRS within the first 90-day period of participation in the Senior Management Service Class as provided in paragraph (d).

b. Local elected officers who elect to participate in the Senior Management Service Class would be eligible to elect to withdraw from the Florida Retirement System to participate in a local retirement program within the first 90-day period of participation in the Senior Management Service Class.

3. An elected officer may file their election in writing to the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., no later than the last business day of the 6th month after assuming elected office in accordance with Sections 121.055 and 121.4501, F.S. and Rule 19-11.006, F.A.C., using the SBA designed form for ease of use; Form EOC-1, Elected Officers' Class Retirement Plan Enrollment Form, adopted by reference in subsection (1) or alternatively the employee may choose to submit a separate document in lieu of Form EOC-1, to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election.

(f) Any member of an existing system or any member retired under the disability provisions of the Teachers' Retirement System who recovers and terminates his or her benefit, and

1. Who returns to employment on or after June 30, 1983 and prior to July 1, 1988; or

2. Who has terminated all employment relationships as provided in subsection 60S-6.001(69), F.A.C., ~~subsection 60S-6.001(55), F.A.C.~~, remains terminated from all covered employment for at least 12 months and returns to covered reemployment on or after July 1, 1988. Such member shall have the option of transferring to the Florida Retirement System or remaining in the existing system. To remain in the existing system the member shall, within 6 months of reemployment, make written notification to the Division of his or her intention to remain in the existing system. Such written notification may be made using Division of Retirement designed form for ease of use, Form BLE-1 (Rev 08/99), herein adopted by reference, or alternatively the employee may choose to submit a separate document in lieu of Form, BLE-1, to file their written notification with the Division which at minimum shall provide the employee's name, social security number and his or her plan election. Failure to submit notification shall result in compulsory membership in the

Florida Retirement System as provided in paragraph 60S-1.004(1)(d), F.A.C.; (See also paragraphs 60S-1.004(1)(g)(f), (3)(b) and (3)(f), F.A.C.)

(g) Those employees who specifically rejected membership in an existing retirement system prior to July 1, 1947, when the employees were given this option by law, and who continue employment without participating in the Florida Retirement System may withdraw their rejection in writing and, if otherwise eligible, participate in the Florida Retirement System. Such employee shall notify the Division of Retirement in writing of his or her desire to withdraw his or her rejection and to become a member of the Florida Retirement System. The Division shall then notify the employing agency to enroll the employee in the Florida Retirement System effective the first day of the month following the month during which the Division received notification of the employee's withdrawal of rejection.

(h) Officers or employees of a covered group of a city or independent special district, who are members of a local retirement system established in accordance with Chapter 175 or 185, F.S. All such officers and employees who elect coverage under the Florida Retirement System shall be compulsory members of the Florida Retirement System, provided a majority of such officers and employees elect such coverage in a referendum held for that purpose.

(i) Any member of a local retirement system whose employer becomes a covered group, except as provided in paragraph (h).

(j) Any employee Employees filling a position classified as eligible for participation in the State Community College System Optional Retirement Program (CCORP) ~~of the State Community College System~~ as provided in Section 121.051, and ~~1012.875, 240.3195~~, F.S.

1.a. Prior to July 1, 2003, an employee filling a CCORP eligible position, within 60 days of the date of qualifying employment, had the option of prospectively participating in the CCORP.

b. On or after July 1, 2003 and through December 31, 2008, an active CCORP participant, having made election to participate in the CCORP prior to July 1, 2003, may file an election in writing with the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., to transfer the sum representing the Present Value of the FRS Pension Plan service credit that resulted from that period(s) of time when the participant first became eligible to transfer to the CCORP and the effective date of such election as provided in Section 121.051(2)(c)7., F.S. Transfer of this sum will nullify service credit for that period under the FRS Pension Plan. Such election may be filed in writing to the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., in accordance to Section 121.4501, F.S., and Rule 19-11.006, F.A.C., using the State Board of Administration designed form for ease of use; Form OCC-2 (Rev. 10-11), "Retirement Plan

Conversion Form for Community College Optional Retirement Program (CCORP) Members", herein incorporated by reference. This form is available on the Division's Web site (<http://FRS.MyFlorida.com>); or by calling toll free (866)446-9377, or for the hearing impaired 1(888)429-2160, or alternatively the employee may choose to submit a separate document in lieu of Form OCC-2, to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election.

2. On or after July 1, 2003, an employee filling a CCORP eligible position, within 90 days of qualifying employment, shall have the option of electing to participate in the CCORP.

a. For an employee initially enrolled into the FRS as a result of CCORP-eligible employment, such election will be retroactive to the date of eligible employment.

b. For an employee who became eligible as a result of transfer to a CCORP-eligible position, such election will be effective the first day of the month for which a full month's participation in the CCORP could have occurred within the 90-day election window.

c. To file an election to participate in the CCORP, such election must be made in writing to the Plan Choice Administrator and to the employer, the eligible employee may use the State Board of Administration's designed form for ease of use; Form OCC-1, "Community College Optional Retirement Program (CCORP) Retirement Plan Choice Form for Eligible Employees," adopted by reference in subsection (1), or alternatively the employee may choose to submit a separate document in lieu of Form OCC-1, to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election.

3. An election to participate in the CCORP is irrevocable except that, effective July 1, 2003, an active participant can, at his or her discretion within the terms of his or her State Community College Optional Retirement Program contract, exercise a one-time opportunity to transfer to the FRS Pension Plan or participate prospectively in the FRS Investment Plan by filing such election in writing with the Plan Choice Administrator, the eligible employee may use the State Board of Administration's designed form for ease of use; Form OCC-2 "Retirement Plan Conversion Form for Community College Optional Retirement Program (CCORP) Members" or alternatively the employee may choose to submit a separate document in lieu of Form OCC-2, to file his or her election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election.

4. An employee who fills a CCORP-eligible position who does not make an election to participate in the CCORP within his or her election window, forfeits eligibility to participate in the CCORP and defaults to FRS membership.

(k) The sheriff, ~~or~~ circuit court clerk or mayor of a consolidated government as provided in Section 121.052(2)(d) and ~~(5)(d)~~, F.S.

(3) Membership Not Permitted – Participation in the Florida Retirement System shall not be permitted for:

(a) A person who has retired under the disability provisions of a state-administered retirement system except as provided in subsection 60S-4.007(8), F.A.C.

(b) Any member of an existing system on or after July 1, 1978 and prior to June 30, 1983 who terminated employment without receiving a total or partial refund of contributions. Such member shall remain a member of the existing system. ~~See also (1)(f) and (2)(e).~~

(c) Officers and employees of any nonprofit association or corporation; however, all officers and employees of the University Athletic Association, Inc. participating in a state-supported retirement system prior to July 1, 1979, shall continue membership in such system, except those who chose in writing between July 1, 1979 and March 30, 1980 to terminate participation in the Florida Retirement System in accordance with Section 121.051(2)(a)1., F.S.

(d) Any person participating in the State University System Optional Retirement Program (SUSORP) ~~for the State University System~~ in accordance with paragraph 60S-1.004(2)(c), F.A.C.

(e) Any person participating in the Senior Management Service Optional Annuity Program in accordance with paragraph 60S-1.004(2)(d), F.A.C., except as provided in Section 121.055(6)(c)5., F.S.

(f) Any member of an existing system who is reemployed on or after July 1, 1988 within 12 months after terminating all employment relationships as provided in subsection Rule 60S-6.001(69), F.A.C. (~~Termination~~), regardless of whether he or she received a full or partial refund of retirement contributions. Such member shall remain a member of the existing system except as provided in Rules 60S-1.0055 and 60S-1.0057, F.A.C. (See also paragraphs 60S-1.004(1)(f), ~~(7)(2)(f)~~, and ~~(8)(3)(b)~~, F.A.C.)

(g) Any person performing services as a consultant or an independent contractor as defined in subsection Rule 60S-6.001(33), F.A.C. The determination of the employment classification of a person as an employee or an independent contractor is solely within the jurisdiction of the Division. To establish whether a person is an independent contractor or an employee, a determination may be requested from the Division, Bureau of Enrollment and Contributions. The determination will be based in substantial part on information furnished on Form ERQ-1 (Rev. 09/08) 420-035, Florida Retirement System Pension Plan Employment Relationship Questionnaire for Retirees Within the 2nd – 12th Months, herein adopted by reference ~~adopted in Rule 60S-9.001, F.A.C.~~, which the employing agency and the person performing the services must each complete and submit to the

Division for a determination. Retroactive adjustments of retirement contributions will be required by any agency that improperly excludes or enrolls a person.

(h) Any person appointed on or after July 1, 1989, to a faculty position in a college at the J. Hillis Miller Health Center at the University of Florida or the Medical Center at the University of South Florida which has a faculty practice plan provided by rule adopted by the Board of Governors Regents; or its predecessors. Effective July 1, 2007, any person appointed to a faculty position, including clinical faculty, in a college at a state university that has a faculty practice plan authorized by the Board of Governors. Such person must shall participate in the State University System Optional Retirement Program based on such service as provided in subsection 60U-1.004(4), F.A.C. and in accordance with Section 121.051(1), F.S.

(i) Any person participating in the Community College Optional Retirement Program ~~of the State Community College System~~ in accordance with Sections 121.051 and 1012.875 240.3195, F.S.; except as provided in subparagraph 60S-1.004(2)(j)3., F.A.C., and Section 121.051(2)(c)3., F.S.

(j) Any person initially employed on or after January 1, 1996, by a city, independent special district, or hospital that revoked its participation in the Florida Retirement System on that date. Such person shall participate in a retirement plan established by the employer in accordance with Section 121.0511, or 121.051(2)(b)5., F.S.

(k) All blind or partially-sighted persons who are employed or licensed by the Bureau of Blind Services as vending facility operators on or after July 1, 1996; and any such persons who were members prior to July 1, 1996, who make an irrevocable election on or before July 31, 1996, to withdraw from the Florida Retirement System, and any such persons for whom retirement contributions are not paid as required in Rule 60S-3.003, F.A.C.

(l) All employees of a not-for-profit corporation or association created by the Board of County Commissioners of Palm Beach County for the purpose of owning, operating, or managing a public bus transit system formerly operated or managed by a private corporation subject to 49 U.S.C., Section 5333(b), F.A.C.

(m) All employees of a private charter school or charter technical career center; and all independent contractors who, either as individuals or as members of a group, contract their services to a public charter school or charter technical career center.

(n) Any retiree of a state administered retirement system initially reemployed on or after July 1, 2010, is not eligible for renewed membership as provided in Sections 121.122 and 121.053, F.S.

(o) Any retiree of a state administered retirement system who is working for a non-participating FRS employer which joins the FRS on or after July 1, 2010, is ineligible for renewed membership in the Florida Retirement System as provided in Sections 121.122 and 121.053, F.S.

(4) Membership in the Florida Retirement System shall be compulsory if the employee is filling a full-time or part-time regularly established position; except for State University System Optional Retirement Program (SUSORP)-eligible and mandatory SUSORP employees as provided in Section 121.35, F.S., and paragraph 60S-1.004(2)(c), F.A.C.; Senior Management Service Optional Annuity Program (SMSOAP)-eligible employees as provided in Section 121.055 and 121.4501, F.S., and paragraph 60S-1.004(2)(d), F.A.C.; elected officers eligible for membership in the Elected Officers' Class as provided in Section 121.052, F.S., and paragraph 60S-1.004(2)(e), F.A.C.; and CCORP-eligible employees as provided in Sections 121.051 and 1012.875, F.S., and paragraph 60S-1.004(2)(j), F.A.C. An employee filling a regularly established position shall be enrolled on the first day of employment, even if the employee is serving a probationary period, or working part-time. A position meeting the definition below shall be considered a regularly established position. An elected official (with the exception of those listed in subparagraph 60S-1.004(5)(d)7., F.A.C.), shall be considered to be filling a regularly established position on the date he or she is commissioned or assumes office.

(a) A regularly established position in a state agency is a position that ~~which~~ is authorized and established pursuant to law and is compensated from a salaries and benefits appropriation pursuant to Section 216.011(1)(mm), F.S., or a position established pursuant to Section 216.262(1)(a) and (b), F.S., and is compensated from either a salaries and benefit appropriation pursuant to Section 216.011(1)(mm), F.S., or from a salaries account as provided for in Section 216.011(1)(nn), F.S. 216.011(1)(z)1. and 2., F.S., or a salaries account as provided for in Rule 3A-10.031, F.A.C.

(b) A regularly established position in a local agency (district school board, county agency, community college, city, independent or special district, metropolitan planning organization, or participating public charter school or charter technical career center) is an employment position which will be in existence beyond 6 consecutive calendar months. A local agency, when establishing an employment position, except for positions identified in sub-subparagraphs 60S-1.004(4)(c)7.a. and 8.a., F.A.C. or paragraph 60S-1.004(5)(d), F.A.C., should determine if the position will exist beyond 6 consecutive calendar months. If it will, then it is a regularly established position. If it will not, then it is a temporary position. A position which exists for any part of a month is considered to be in existence for the entire month. A local agency shall not use the 6 month period as a means for not making the required retirement contributions into the Florida Retirement System

trust fund. Records documenting the intended length of a temporary position and the dates of employment of an employee in such position must be maintained by the agency.

(c) The following shall apply to all members employed by a local agency:

1. through 6. No change.

7.a. CETA participants employed from July 1, 1979 through September 30, 1983, under the Federal Comprehensive Employment and Training Act and JTPA participants employed on or after October 1, 1983, under the Job Training Partnership Act shall be considered to be filling a temporary position for retirement purposes.

b. CETA participants employed prior to July 1, 1979 who are already covered for retirement may continue to have retirement coverage for the duration of their participation in the CETA program.

c. through d. No change.

8. No change.

(5) An employee who is filling a temporary position shall not be eligible for membership in the Florida Retirement System. Records documenting the intended length of a temporary position and the dates of employment of an employee in such position must be maintained by the agency. An employer employing a person in a temporary position shall advise the employee at the time of his or her employment that he or she is filling a temporary position and cannot participate in the Florida Retirement System or claim this temporary employment later for retirement purposes. A position shall not be considered temporary due to the uncertainty of the employee's intention to continue employment. A position meeting the definition below shall be a temporary position.

(a) A temporary position in a state agency is an employment position which is compensated from an other personal services (OPS) account as provided for in Section 216.011(1)(dd)(~~z~~), F.S.

(b) A temporary position in a local agency is:

1. An employment position which will not exist beyond 6 consecutive calendar months; or

2. An instructional position which is established with no guarantee of continuation beyond one term to teach in a community college, a district school board public school, a participating public charter school or a participating public charter technical career center; effective July 1, 1991, such a position may include a paper grader, tutor, note taker, and a lab tutor at community colleges; or

2. ~~An employment position which is listed below in (d) regardless of whether it will exist beyond 6 consecutive months:~~

~~(e) When an employment position in a local agency is extended beyond 6 consecutive calendar months, with the exception of those listed in paragraph (d) below, it shall become a regularly established position for retirement purposes and the employer shall enroll the current employee~~

~~and all subsequent employees filling the position into the retirement system and shall begin to make the necessary contributions on the first day of the seventh calendar month, or on the first day of the month following the month in which the decision is made to extend the position beyond 6 months, if earlier. When a temporary position extends beyond 6 months and there is no documentation substantiating that the position was originally established as a temporary position to last for 6 months or less, the employee filling such position will be enrolled from the initial date of employment and retirement contributions shall be due retroactively to that date.~~

~~3.(d) Any of the~~ The following types of positions wherein documentation in a local agency are considered temporary positions for retirement purposes. Documents to support such temporary positions is listed below must be maintained by the agency in the employee's personnel agency's record or in the absence of the same, other agency documentation deemed acceptable by the division (see subsection 60S-5.007(2), F.A.C.).

~~a.1. Student Positions~~ (positions filled by persons who are bona fide students in an accredited educational or vocational program who perform services for a public employer in a ~~temporary~~ position set aside strictly for students).

~~b.2. Work-Study Positions~~ (positions filled by students participating in the Federal work-study program).

~~3. Temporary Instructional Positions~~ (positions which are established with no expectation of continuation beyond one semester or one trimester at a time, to teach in a community college, public school, or vocational institution; effective July 1, 1991, such positions may include paper graders, tutors, notetakers, and lab tutors at community colleges).

~~c.4. Substitute teacher~~ Teacher Positions (positions filled by persons not on contract called to work intermittently to substitute).

~~d.5. On call~~ Call Positions (positions filled by employees who are called to work ~~unexpectedly~~ for brief periods and whose work employment ceases when the job is completed purpose for being called is satisfied). If an employee has a work schedule and works consistently month after month, he or she is not considered to be filling an on call position.

~~e.6. CETA and JTPA Positions~~, and "enrollees" in Senior Community Service Employment Program of the USDA as provided in sub-subparagraphs 60S-1.004(4)(c)7.a. and 8.a, F.A.C.

~~f.7. Non-salaried elected~~ Elective Positions (positions in which the elected officials receive no compensation, but receive expenses, e.g., per diem, stipend, or an honorarium).

~~g.8. Effective July 1, 1991, Temporary~~ Non-instructional Community College positions ~~Positions~~ (effective July 1, 1991, ~~non-instructional positions~~ filled by employees paid from an other-personal-services OPS budget for not more than 2080 hours of total service within a single community college. Such person who is employed beyond 2080 total aggregate

hours within a community college shall thereafter be an employee filling a regularly established position and a compulsory member of the Florida Retirement System regardless of the appropriation category budget from which he or she is paid.)

~~h.9.~~ Positions established on a temporary basis as a result of a state of emergency as declared by the Governor because of a disaster caused by destructive storms, winds, floods, fires, earthquakes, freezes, and other similar emergencies.

~~i.10.~~ Instructional positions in grades K-12 filled by exchange teachers on a J-1 visa when participating in an exchange visitor program designated by the United States Department of State pursuant to 22 CFR 62.24 (November 10, 2005). Employment may not exceed 3 years whether employed in regularly established positions or temporary positions with educational institutions listed on federal Form DS-2019, Certificate of Eligibility for Exchange Teacher Status. A certified copy of Form DS-2019 must be maintained in the sponsoring agency's records for each exchange teacher employed.

(6) A member who terminates employment retains membership rights to previously earned member-noncontributory service credit, and to member-contributory service credit if the member leaves his or her contributions on deposit in his or her retirement account. Such member may reinstate any previously earned member-contributory service credit for which a refund was received after completion of 1 year of reemployment and membership as provided in subsection 60S-2.004(2), F.A.C., and repayment of the refunded employee contributions, as provided in Rule 60S-3.005, F.A.C.

(7) The effective date of membership in each class enumerated in subsection (1) and defined in Rule 60S-6.001, F.A.C., shall be as follows:

(a) Regular Class members:

1. A Regular Class ~~regular~~ member shall have membership in the Regular Class effective on his or her first day of employment.

2. A Special Risk Class ~~special-risk~~ member who becomes ineligible for Special Risk Class ~~special-risk~~ membership shall have his or her designation of Special Risk Class ~~special-risk~~ membership discontinued and shall become a Regular Class member on the first day of the month following the date the member becomes ineligible for Special Risk Class ~~special-risk~~ membership.

(b) through (e) No change.

Rulemaking Specific Authority 121.031, 121.4501(8)(a) FS. Law Implemented 121.011, 121.021, 121.021(39), 121.051(1), (2), 121.051(2)(b)6., 121.0511, 121.0511(6), 121.052, 121.053, 121.055, 121.081, 121.091(8), (13), 121.122, 121.35, 121.355, 121.4501, 240.3195, 1012.875 FS. History—New 1-1-72, Amended 10-20-72,

12-31-74, 10-2-78, 7-1-79, 7-1-80, 8-26-81, 1-19-82, 10-11-82, 1-18-83, 11-6-84, 4-17-85, Formerly 22B-1.04, Amended 2-4-86, 1-12-87, 3-11-87, 2-7-89, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-1.004, Amended 3-18-93, 8-4-94, 4-5-95, 3-12-96, 12-12-96, 2-24-99, 9-17-03, 1-1-06, _____.

60S-1.0045 Renewed Membership in the Regular Class and Senior Management Service Class.

(1) On and after July 1, 1991 and through June 30, 2010, any retired member of a state-administered retirement system who is employed in a regularly established position, including an elected officer not eligible for membership in the Elected Officers' Class, shall be enrolled as a compulsory member of the Regular Class, except a member participating in the Deferred Retirement Option Program as provided in Rule Chapter 60S-11, F.A.C., or as provided in subsection 60S-1.0055(4), F.A.C.; Effective and effective July 1, 1997 through June 30, 2010, any such retired member who is employed in a position included in the Senior Management Service Class shall be enrolled as a compulsory member of the Senior Management Service Class as provided in paragraph 60S-1.0057(1)(a), F.A.C. ~~60S-1.0057(2)(a)~~, and may elect, in lieu of the Senior Management Service Class as provided in paragraph 60S-1.0057(7)(c), F.A.C. ~~60S-1.0057(2)(b) or (e)~~, to participate in the Senior Management Service Optional Annuity Program or withdraw from the Florida Retirement System altogether as provided in Section 121.055, F.S. Such Regular Class or Senior Management Service Class renewed member shall be eligible to receive a second-career retirement benefit in the Florida Retirement System Pension Plan as follows:

(a) through (b) No change.

(c) The member shall comply with all requirements and be eligible for all benefits applicable to Regular Class or Senior Management Service Class membership except that he or she shall not be entitled to disability benefits as provided in Rule 60S-4.007, F.A.C., and he or she shall not be eligible to participate in the Deferred Retirement Option Program (DROP) as provided in Section 121.091(13), F.S.

(d) The member shall be entitled to receive an additional retirement benefit upon normal retirement as provided in paragraph 60S-4.004(1)(a) or (d), F.A.C., or upon early retirement as provided in Rule 60S-4.005, F.A.C., in accordance with his or her respective membership class, if such member becomes vested as required by the provisions of the Regular Class or Senior Management Service Class. Creditable service may include:

1. For vesting in the Regular Class, service earned as an elected officer with renewed membership in the EOC or as a member with renewed membership in the Senior Management Service Class; and

2. For vesting in the Regular Class or the Senior Management Service Class, credit for post-retirement service performed prior to renewed membership and claimed by the member as provided in subsection 60S-2.008(3), F.A.C.

(e) No service for which credit was earned or which remained unclaimed at retirement may be claimed or applied toward the second-career benefit, except as provided in Section 121.122(1) (g), F.S. that a renewed member who is receiving an annuity from the Optional Retirement Program or the Optional Annuity Program, or who is receiving an IFAS Supplement, may claim such Florida Retirement System service provided that such service was not used toward another benefit.

(f) A reemployed retiree ~~Reemployed retirees~~ who elects ~~elect~~ membership in the FRS Investment Plan shall be eligible to receive benefits upon termination as provided in Section 121.4501, F.S.

(2) If the member is not receiving the maximum health insurance subsidy provided in Rule 60S-4.020, F.A.C., he or she shall be entitled to earn additional credit toward the maximum subsidy, which he or she shall receive only at the time of payment of the second-career retirement benefit. The total subsidy paid to retirees receiving benefits from initial and renewed membership shall not exceed the maximum allowed in Rule 60S-4.020, F.A.C.

(3) Applicable contributions shall be made as provided in subsections 60S-3.003(1) and (7), F.A.C.

(4) Renewed membership in the FRS is closed to any retiree of a state administered retirement system initially reemployed on or after July 1, 2010.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.091, 121.122 FS. History—New 11-14-91, Formerly 22B-1.0045, Amended 3-18-93, 5-10-99, 9-17-03, _____.

60S-1.005 Special Risk Class; Legislative Intent and Procedures.

(1) Legislative Intent. – In creating the Special Risk Class ~~special-risk class~~ of membership within the Florida Retirement System, it is the intent and purpose of the Legislature to recognize that persons employed in certain categories of law enforcement, firefighting, and criminal detention, and emergency medical care positions are required as one of the essential functions of their positions to perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties may find that they are not able, without risk to the health and safety of themselves, the public, or their co-workers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other positions, and that, if such persons find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they will suffer an

economic deprivation therefrom. Therefore, as a means of recognizing the peculiar and special problems of this class of employees, it is the intent and purpose of the Legislature to establish a class of retirement membership that awards more retirement credit per year of service than that awarded to other employees; nothing contained herein shall require ineligibility for Special Risk Class special-risk membership upon reaching age 55.

(2) Eligibility – Any member who is employed as a law enforcement officer, a firefighter, ~~or~~ a correctional officer, a community based probation officer with the Department of Corrections, a youth custody officer with the Department of Juvenile Justice, or an emergency medical technician or paramedic, a fixed-wing aircraft pilot conducting aerial firefighting surveillance employed by the Division of Forestry of the Department of Agriculture and Consumer Services, a professional health care worker in a correctional or forensic facility or institution and employed by the Department of Corrections or the Department of Children and Family Services; a forensic worker employed by the Department of Law Enforcement in the crime laboratory or employed by the Division of the State Fire Marshal in the forensic laboratory, or a forensic worker employed by a local government law enforcement agency or medical examiner's office who meet the criteria as set forth in Rule 60S-1.0051, 60S-1.0052, 60S-1.0053, ~~or~~ 60S-1.00535, 60S-1.00537, or 60S-1.00539, F.A.C., shall be eligible for approval for Special Risk Class special-risk membership as provided in this section.

(3) Application. – The following procedures shall govern applications for Special Risk Class special-risk membership:

(a) Application procedures for officers and employees of state agencies.

1. Applying the requirements for Special Risk Class special-risk membership in subsection (2), the Department of Management Services shall specify those classes of positions established by the Division of Human Resource Management Personnel which shall be included in the Special Risk Class. The incumbents of such positions shall be entitled to Special Risk Class special-risk membership. If a class is not specified by the Department of Management Services, the employing agency may petition the State Retirement Commission for inclusion of a particular class among those specified as provided in Section 121.0515(3)(b), F.S.

2. Each state agency utilizing positions specified in subparagraph 1. shall submit the appropriate position class code on the Monthly Retirement Report, for each officer and employee who fills a position so specified.

3. The effective date of Special Risk Class special-risk membership for newly employed officers and employees who have been verified by the employing state agency and who are certified or required to be certified by the appropriate council or commission shall be the date of employment in a position

specified as Special Risk Class special-risk as provided in subparagraph 1. Special Risk Class risk contributions shall begin at that time.

a. If a Regular Class regular member becomes employed in a Special Risk Class special-risk position or a position is reclassified as a Special Risk Class special-risk position, the effective date of Special Risk Class special-risk membership shall be the first day of the month in which the employee assumes the Special Risk Class special-risk position or the position is reclassified. Special Risk Class risk contributions shall be payable effective with the first salary paid on or after the first day of the month of Special Risk Class special-risk coverage.

b. If a Special Risk Class special-risk member changes to another position classified as Special Risk Class special-risk within the same set of criteria (e.g., a corrections officer I changing to a corrections officer II position), the employer shall submit the appropriate position class code for the new position on the Monthly Retirement Report.

c. If a Special Risk Class special-risk member changes to a Special Risk Class special-risk position under a different set of criteria (e.g., a transfer from law enforcement to a firefighter or correctional position), his or her employer shall submit the appropriate position class code for the new position on the Monthly Retirement Report.

(b) Application procedures for officers and employees of county agencies, district school boards, community colleges, and participating cities, and independent special districts, metropolitan planning organizations, public charter schools or charter technical career centers, and those classified by the Judicial Administrative Classification Plan and the Department of Lottery.

1. Any Regular Class regular member who feels that he or she meets the requirements for Special Risk Class special-risk membership set forth in subsection (2) may request that his or her employer submit an application to the Division requesting that the Division designate him or her as a Special Risk Class special-risk member. Such member shall complete the employee portions of the appropriate Special Risk Class application, Forms FRS-400 or FRS-405 adopted in Rule 60S-9.001, F.A.C. The employer shall promptly certify and submit to the Division the following documents:

a. The appropriate Florida Retirement System Application for Special Risk Class Membership.

(I) Florida Retirement System Application for Special Risk Class Membership for Law Enforcement/Correctional Officers, Form (FRS-400 (Rev.04/00), herein adopted by reference; or

(II) Florida Retirement System Application for Special Risk Class Membership Firefighters/Paramedics/EMTs, Form (FRS-405 (Rev.10/03), herein adopted by reference; or

(III) Florida Retirement System Application for Special Risk Class Membership for Forensic Discipline from October 1, 2005 through June 30, 2008, Form FRS-410 (Rev. 05/08), herein adopted by reference; or

(IV) Florida Retirement System Application for Special Risk Class Membership for Forensic Discipline effective July 1, 2008, Form FRS-415 (05/08), herein adopted by reference.

b. A current job description of the member's duties showing the percentage of time spent performing each duty.

c. A copy of a personnel action form showing the effective date of membership in that position.

d. Organization chart including the applicant's position for any members applying under supervisory criteria.

2. If the employer refuses to submit the member's application to the Division, the employer ~~he~~ shall notify the member of the ~~his~~ refusal, together with the employer's reasons for refusal ~~his reasons~~. The member may then appeal this refusal to the State Retirement Commission pursuant to Section 121.0515(3)(a), F.S.

3. Upon receipt of the completed application, which shall include all of the items designated in subparagraph 1. above, the Division shall within 90 days determine if the member meets the requirements for Special Risk Class ~~special risk~~ membership set forth in subsection (2). If the requirements for Special Risk Class ~~special risk~~ membership are met, the Division shall approve the member for Special Risk Class ~~special risk~~ membership which shall commence as follows:

a. When a newly employed member's complete application is received by the Division of Retirement, the effective date of membership in the Special Risk Class ~~special risk class~~ shall be the date of employment in the position and Special Risk Class ~~special risk~~ contributions shall be payable from that time.

b. If a Regular Class member ~~regular employee~~ changes to a Special Risk Class ~~special risk~~ position within the employing agency and, upon submitting the complete Special Risk Class ~~special risk~~ application, he or she is approved for Special Risk Class ~~special risk~~ membership, the member ~~he~~ shall have Special Risk Class ~~special risk~~ coverage effective the first day of the month in which the employee assumes the Special Risk Class ~~special risk~~ position. Special Risk Class ~~special risk~~ contributions shall be payable effective with the first salary paid on or after the first day of the month of Special Risk Class ~~special risk~~ coverage.

c. If a Special Risk Class ~~special risk~~ member changes to another position within the same agency that is not a preapproved Special Risk Class ~~special risk~~ position listed with Class Codes in Chapter 1 of the FRS ~~Division of Retirement~~ Employer Handbook, or is employed with a new agency, the member ~~he~~ must submit a complete application as provided in sub-subparagraph (3)(b)1.a. to the Division of Retirement.

d. If a Special Risk Class ~~special risk~~ member changes to a preapproved Special Risk Class ~~special risk~~ position listed with Class Codes in Chapter 1 of the FRS ~~Division of Retirement~~ Employer Handbook under the same set of criteria (e.g., a corrections officer I changing to a corrections officer II position), the employer shall submit the appropriate position class code for the new position on the Monthly Retirement Report.

e. If a Special Risk Class ~~special risk~~ member changes to a Special Risk Class ~~special risk~~ position under a different set of criteria (e.g., a transfer from law enforcement to a firefighter or correctional officer position), the member ~~he~~ must submit a complete application for Special Risk Class ~~special risk~~ membership, except that the employer of such officer who changes to a preapproved Special Risk Class ~~special risk~~ position listed with Class Codes in Chapter 1 of the FRS ~~Division of Retirement~~ Employer Handbook must submit only the appropriate position class code for the new position on the Monthly Retirement Report for such member.

4. Within 90 days of receipt of the application, the Division shall determine whether or not the member meets the requirements for Special Risk Class ~~special risk~~ membership. If it is determined that the member does not meet the requirements, the Division shall notify the member by certified mail, with a copy to his or her employer, of the Administrator's intended decision to disapprove the member's application for Special Risk Class ~~special risk~~ membership. This notice shall include a summary of the factual, legal and policy grounds for the intended decision.

a. When a member receives notice that the Administrator intends to deny his or her application for Special Risk Class ~~special risk~~ membership, the member ~~he~~ shall have 21 calendar days to present written evidence or objections challenging the grounds upon which the Administrator has based his or her intended decision.

b. If the Administrator overrules the objections of the member, the Administrator shall within 21 calendar days provide a written final decision on the merits to the member by certified mail with a copy to the member's employer, giving the reasons for his or her final decision.

c. If the member does not accept the Administrator's final decision on the merits, the member may request in writing, pursuant to Section 121.23, F.S., Chapter 60R-1, F.A.C., and the Uniform Rules in Rule Chapter 28-106, F.A.C., a hearing on the denial of his or her application for Special Risk Class ~~special risk~~ membership before the State Retirement Commission pursuant to Section 120.57(1), F.S. Such request shall be filed with the Commission within 21 calendar days from the date the member receives notice of the Administrator's final decision.

d. The decisions of the State Retirement Commission on matters brought before it under this paragraph shall be final agency action.

e. The decisions of the State Retirement Commission shall be reviewable by the District Court of Appeal pursuant to Section 121.23, F.S.

5. A member who receives a final affirmative ruling on his or her appeal for Special Risk Class ~~special-risk~~ membership shall have Special Risk Class ~~special-risk~~ membership retroactive to the date such member would have had Special Risk Class ~~special-risk~~ membership had such membership been approved by the employer and the Division, as determined by the Division; and the employer contributions shall be paid in full within one year of such final ruling.

(4) Review of Special Risk Class Designations. – The Division shall from time to time review the Special Risk Class ~~special-risk~~ designation of members and determine whether or not those members meet the criteria for Special Risk Class ~~special-risk~~ membership. Upon request by the Division, recertification of a specified member or members shall be submitted by the employer. If the Administrator determines that a member or members do not meet the criteria, the notification and appeal procedure set forth in subparagraph 60S-1.005(3)(b)4., F.A.C., shall be followed. The effective date of such discontinuance shall be the first day of the month following the date of the Administrator's final decision of discontinuance. Contributions shall be due at the Regular Class ~~regular~~ membership rate effective with the first salary paid on or after the day the member becomes a Regular Class ~~regular~~ member.

(5) Transfer to a Regular Class Position. – A Special Risk Class ~~special-risk~~ member who transfers to a position that does not qualify him or her for Special Risk Class ~~special-risk~~ membership shall have his or her designation of Special Risk Class ~~special-risk~~ membership discontinued and shall become a Regular Class ~~regular~~ member on the first day of the month following the date of such transfer. Contributions are payable at the Regular Class ~~regular~~ membership rate effective with the first salary paid on or after the day the member becomes a Regular Class ~~regular~~ member. The employer of such a member shall report the member's change to membership in the Regular Class ~~the regular membership class~~ on the Monthly Retirement Report.

(6) Retroactive Special Risk Class Coverage. – A Special Risk Class ~~special-risk~~ member who was removed from the Special Risk Class effective October, 1978 solely because he or she did not possess the certification required in Rule 60S-1.0051, 60S-1.0052, or 60S-1.0053, F.A.C., may receive Special Risk Class ~~special-risk~~ credit for this period during which he or she was removed, provided:

(a) Certification was obtained and membership in the Special Risk Class was approved on or before June 30, 1982; and

(b) The employer verifies that all requirements for Special Risk Class ~~special-risk~~ membership were met during the period of removal except the requirement for certification or temporary waiver of certification; and

(c) The member ~~employee~~ or employer pays the contributions required in Rule 60S-3.015, F.A.C.

Rulemaking Specific Authority 121.031, 121.0515, 121.4501(8)(a), FS. Law Implemented 121.021(15), 121.051, 121.0515, 121.23, FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 8-9-76, 1-16-77, 10-2-78, 1-19-82, 9-9-82, 11-6-84, 4-17-85, Formerly 22B-1.05, Amended 2-7-89, 11-14-91, Formerly 22B-1.005, Amended 1-25-94, 9-17-03, _____.

60S-1.0051 Criteria for Special Risk Class Membership – Law Enforcement.

The criteria set forth below shall be used pursuant to Rule 60S-1.005, F.A.C., in determining membership in the Special Risk Class ~~special-risk class~~ for members who are filling law enforcement positions, regardless of the title of such a position.

(1) Any member, except a sheriff or an elected police chief, who seeks to be approved for Special Risk Class ~~special-risk~~ membership under this section must be certified or required to be certified as a law enforcement officer in compliance with the Criminal Justice Standards and Training Commission as provided in Section 943.1395, F.S.

(2) Any member who seeks Special Risk Class ~~special-risk~~ membership must hold one of the following law enforcement positions:

(a) Effective October 1, 1978, a sheriff ~~Sheriff~~ or elected police chief or,

(b) Effective October 1, 1978, a law ~~Law~~ enforcement officer whose duties include the pursuit, apprehension and arrest of law violators or suspected law violators; or,

(c) Effective July 1, 1982, an active ~~Active~~ member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices.

(d) A command ~~Command~~ officer or supervisor of a Special Risk ~~special-risk~~ member or members whose duties are listed in paragraphs (b) and (c) ~~include the pursuit, apprehension and arrest of law violators or suspected law violators or members of a bomb disposal unit~~. However, administrative support personnel cited in subsection (3) shall not be included.

(3) Except for those cited in paragraph (2)(a) above, no administrative support personnel, including but not limited to those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall be admitted to Special Risk Class ~~special-risk~~ membership.

(4) Any elected sheriff may choose membership in the Special Risk Class in lieu of the Elected Officers' Class. Within 6 months after his or her election or reelection such officer must notify the Division, in writing, of his or her decision to remain in or choose membership in the Special Risk Class.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021(15), 121.0515, 121.052 FS. History—New 10-2-78, Amended 9-9-82, 4-17-85, Formerly 22B-1.051, 22B-1.0051, Amended 3-18-93,_____.

60S-1.0052 Criteria for Special Risk Class Membership – Firefighters.

The criteria set forth below shall be used pursuant to Rule 60S-1.005, F.A.C., in determining membership in the Special Risk Class ~~special risk class~~ for members who are filling firefighter positions, regardless of the title of such a position.

(1) Any member who seeks to be approved for Special Risk Class ~~special risk~~ membership under this section, must be certified or required to be certified in compliance with the Firefighters Standards and Training Council as provided in Section 633.35, F.S.

(2) Any member who seeks Special Risk Class ~~special risk~~ membership must hold one of the following firefighter ~~firefighters~~ positions:

(a)1. Effective October 1, 1978, a firefighter ~~Firefighter~~ whose duties and responsibilities require on the scene fighting of fires, on the scene fighting of fires, fire prevention, or firefighter training, or aerial firefighting surveillance by fixed-wing aircraft pilots employed by the Division of Forestry of the Department of Agriculture and Consumer Services.

2. Effective July 1, 2001, a firefighter employed by the Division of Forestry of the Department of Agriculture and Consumer Services whose duties and responsibilities require aerial firefighting surveillance as a fixed-wing aircraft pilot.

3. Effective October 1, 2001, a firefighter whose duties and responsibilities require fire prevention or firefighter training.

(b) Command officer or supervisor of a Special Risk Class ~~special risk~~ member or members whose duties are listed in paragraph (a). However, administrative support personnel cited in subsection 4 shall not be included.

(3) Any member approved for the Special Risk Class ~~special risk~~ must be employed solely within the fire department of the employer or agency of state government. (This shall not be construed to exclude from Special Risk Class ~~special risk~~ membership those employees who hold two employments simultaneously and who are covered for retirement only on the salary earned as a Special Risk Class ~~special risk~~ member as specified in Rule 60S-1.008, F.A.C., ~~of these rules.~~)

(4) No administrative support personnel, including but not limited to those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall be admitted to Special Risk Class ~~special risk~~ membership.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021(15), 121.0515 FS. History—New 10-2-78, 4-17-85, Formerly 22B-1.052, 22B-1.0052, Amended 9-17-03,_____.

60S-1.0053 Criteria for Special Risk Class Membership – Correctional Officers.

The criteria set forth below shall be used pursuant to Rule 60S-1.005, F.A.C., in determining membership in the Special Risk Class ~~special risk class~~ for members who are filling correctional officer positions, regardless of the title of such a position.

(1) Any member who seeks to be approved for Special Risk Class ~~special risk~~ membership under this section, must be certified or required to be certified as a correctional officer in compliance with the Criminal Justice Standards and Training Commission, as provided in Section 943.1395, F.S.

(2) Any member who seeks Special Risk Class ~~special risk~~ membership must hold one of the following correctional officer positions:

(a) Effective October 1, 1978, a correctional ~~Correctional~~ officer whose primary duty and responsibility is the custody and physical restraint, when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail or while being transported outside the facility.

(b) Effective October 1, 1978, a Superintendent or Assistant Superintendent (regardless of title) of a correction or detention facility where duly committed inmates are confined, housed, or maintained and where correctional officers are employed. Superintendent shall mean the person directly in charge of the day-to-day operations of a specific correction or detention facility. Assistant Superintendent shall mean the one person whose responsibilities include direct line authority from the Superintendent over all subordinate employees for the day-to-day operations at the facility. If no one employee in a corrections facility has such responsibility, then for retirement purposes there is no assistant superintendent at that facility, except that in large state institutions there may be more than one assistant superintendent if the institution is divided into units, each having an assistant superintendent with direct line authority from the superintendent over all subordinate employees for the day to day operations within the unit.

(b) ~~Command officer or supervisor of a special risk member or members holding a position as described in paragraph (2)(a) above.~~

(c) Effective July 1, 1984, a command officer or supervisor of a Special Risk Class member or members holding a position as described in paragraph (2)(a) above.

(e) ~~Superintendent or Assistant Superintendent (regardless of title) of a correction or detention facility where duly committed inmates are confined, housed, or maintained and where correctional officers are employed. Superintendent shall mean the person directly in charge of the day-to-day operations of a specific correction or detention facility. Assistant Superintendent shall mean the one person whose responsibilities include direct line authority from the Superintendent over all subordinate employees for the~~

~~day to day operations at the facility. If no one employee in a corrections facility has such responsibility, then for retirement purposes there is no assistant superintendent at that facility, except that in large state institutions there may be more than one assistant superintendent if the institution is divided into units, each having an assistant superintendent with direct line authority from the superintendent over all subordinate employees for the day to day operations within the unit.~~

(d) Effective January 1, 2001, a community-based correctional probation officer whose primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within the community; or the supervisor of a member who has such responsibilities; or probation and parole circuit administrator, or deputy circuit administrator.

~~(e) Effective January 1, 2001, professional health care member employed by the Department of Corrections or the Department of Children and Family Services in one of the following positions listed in Section 121.0515(2)(f), F.S.~~

~~(e)(f)~~ Effective July 1, 2001, a youth custody officer of the Department of Juvenile Justice whose primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, apprehension, arrest, and counseling of assigned juveniles within the community.

(3) No administrative support personnel, including but not limited to those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall be admitted to Special Risk Class ~~special-risk~~ membership.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021(15), 121.0515 FS. History--New 10-2-78, Amended 9-9-82, 11-6-84, 4-17-85, Formerly 22B-1.053, 22B-1.0053, Amended 9-17-03, _____.

60S-1.00535 Criteria for Special Risk Class Membership – Emergency Medical Technicians and Paramedics.

The criteria set forth below shall be used pursuant to Rule 60S-1.005, F.A.C., in determining membership in the Special Risk Class ~~special-risk class~~ for members who are filling emergency medical technician and paramedic positions, regardless of the title of such position.

(1) Effective October 1, 1999, any ~~Any~~ member who seeks Special Risk Class ~~special-risk~~ membership must be employed as an emergency medical technician or a paramedic by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer and be certified in compliance with Section 401.27, F.S., and the member's primary duties and responsibilities must include on-the-scene emergency medical care.

(2) Effective October 1, 2001, any member who seeks Special Risk Class membership ~~The member's primary duties and responsibilities must include on-the-scene emergency~~

~~medical care, or the member~~ must be the supervisor or command officer of one or more members who have such responsibility as provided in subsection (1).

(3) No administrative support personnel, including but not limited to those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall be admitted to Special Risk Class ~~special-risk~~ membership.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021(15), 121.0515 FS. History--New 9-17-03, Amended _____.

60S-1.0054 Special Risk Administrative Support Class.

(1) Intent – In creating the Special Risk Administrative Support Class within the Florida Retirement System, the Legislature recognizes that when Special Risk Class ~~special-risk~~ members are employed or reassigned for training, career development or to fill a critical agency need they often fail to meet the criteria for Special Risk Class ~~special-risk~~ membership. They are then placed in the Regular Class ~~regular class~~ of membership, thereby losing the earlier retirement date and the higher accrual rate offered Special Risk Class ~~special-risk~~ members. While it is not the intent of the Legislature to continue to provide the higher accrual rate for such members upon employment or reassignment to non-Special Risk Class ~~special-risk~~ positions, it is intended that such members who qualify for Special Risk Administrative Support Class membership and satisfy the vesting requirements for the Special Risk Class shall be entitled to count such Special Risk Administrative Support Class service towards their Special Risk Class ~~special-risk~~ normal retirement date.

(2) Eligibility – On or after July 1, 1982, a member being reassigned or employed by an agency shall participate in the Special Risk Administrative Support Class if:

(a) The member is employed by an agency whose primary purpose is law enforcement, firefighting, corrections, or emergency medical care, or if the employer has multiple responsibilities, the member must be employed by a unit of the agency whose primary purpose is law enforcement, firefighting, corrections, or emergency medical care; and

(b) The member is employed or reassigned by his or her employer to a non-Special Risk Class ~~special-risk~~ position which provides training and/or career development opportunities to the member, or fulfills a critical agency need; and

(c) The member has participated in the Special Risk Class; and

(d) The member remains certified by the appropriate authority; and

(e) The member is subject to reassignment at any time to a Special Risk Class ~~special-risk~~ position.

(3) Application – The following procedures shall govern applications for Special Risk Administrative Support Class membership:

(a) The employer of a Special Risk Class ~~special risk~~ member who is reassigned or employed in a position determined by the employer to be a Special Risk Administrative Support Class ~~special risk administrative support~~ position shall submit to the Division of Retirement the following:

1. Florida Retirement System Application for Special Risk Administrative Support Class (FRS-404), adopted in Rule 60S-2.0041 ~~Rule Chapter 60S-9~~, F.A.C.

2. A current job description of the member's duties showing the percentage of time spent performing each duty.

3. A copy of the appropriate certification or other evidence of certification as required by the Criminal Justice Standards and Training Commission in Section 943.1395, F.S., or the Firefighters Standards and Training Council in Section 633.35, F.S., or maintain certification pursuant to Section 401.27, F.S.

4. A copy of a personnel action form showing the effective date of membership in that position.

(b) The Division of Retirement shall approve or disapprove all applications for Special Risk Administrative Support Class membership. If the requirements for Special Risk Administrative Support Class membership are met, the Division shall approve the member for membership as provided below:

1. When a newly employed member's application is received by the Division of Retirement, the effective date of membership in the Special Risk Administrative Support Class shall be the date of employment in the position and Special Risk Administrative Support Class contributions shall be payable from that time.

2. If a former Special Risk Class ~~special risk~~ member, now a Regular Class ~~regular~~ member, changes to a Special Risk Administrative Support Class position within the employing agency and, upon submitting the complete Special Risk Administrative Support Class ~~special risk administrative support~~ application, he or she is approved for Special Risk Administrative Support Class membership, he or she shall have Special Risk Administrative Support Class coverage effective the first day of the month in which the employee assumes the Special Risk Administrative Support Class position. Special Risk Administrative Support Class contributions shall be payable effective with the first salary paid on or after the first day of the month of Special Risk Administrative Support Class ~~special risk administrative support~~ coverage.

3. If a Special Risk Administrative Support Class member changes to another position within the same agency or is employed by another agency that meets the criteria under these rules, the employer must submit the same documents as required in paragraph (3)(a) above to the Division of Retirement.

(4) Transfer to a Regular Class Position – A Special Risk Administrative Support Class member who transfers to a Regular Class ~~regular class~~ position that does not qualify him or her for Special Risk Administrative Support Class membership shall have his or her designation of Special Risk Administrative Support Class membership discontinued and shall become a Regular Class ~~regular class~~ member on the first day of the month following the date of such transfer. Contributions are payable at the Regular Class ~~regular class~~ membership rate effective with the first salary paid on or after the first day of the month the member becomes a Regular Class ~~regular class~~ member. A state employer of such a member shall submit the appropriate position class code for the new position on the Monthly Retirement Report, which will indicate the member's change to the Regular Class ~~regular class~~ of membership. A local employer of such member shall only report the member's change to ~~the regular~~ membership in the Regular Class ~~class~~ on the Monthly Retirement Report.

(5) Contribution – Contributions shall be paid in accordance with subsection 60S-3.003(3)(4), F.A.C. Employers of members who fail to satisfy the vesting requirements for the Special Risk Class shall not be refunded contributions for Special Risk Administrative Support Class service.

(6) Retention of Special Risk Class Normal Retirement Date – A member who earns Special Risk Administrative Support Class credit and satisfies the vesting requirements for the Special Risk Class, as described in paragraph 60S-2.0041(2)(b), F.A.C., shall be able to include the Special Risk Administrative Support Class service towards the satisfaction of the Special Risk Class ~~special risk~~ normal retirement date. If, at retirement, the member has failed to satisfy such vesting requirements, his or her Administrative Support Class service shall be calculated as Regular Class ~~regular~~ service in a dual normal retirement benefit.

(7) Retroactive Coverage – The provisions of this section shall apply retroactively for the period October 1, 1978, to July 1, 1982, for eligible members as provided in paragraph 60S-2.0041(2)(d), F.A.C. In order to receive credit for retroactive service under this rule, the member must make application for his or her retroactive coverage and should consult paragraph 60S-2.0041(2)(d), F.A.C., of these rules for the procedure.

(8) Review of Special Risk Administrative Support Class Designations – The Division of Retirement shall from time to time review the Special Risk Administrative Support Class designation of members and determine whether or not those members meet the criteria for Special Risk Administrative Support Class membership.

(a) Upon request by the Division, recertification of a specified member or members shall be submitted by the employer. If the Division determines that a member does not meet the criteria, it shall follow the appeal procedure outlined

in subsection 60S-1.0054(9), F.A.C., and notify the member of its intended decision to discontinue his or her membership in the Special Risk Administrative Support Class. The effective date of such discontinuance shall be the first day of the month following the date that final determination of the discontinuance is made. Contributions shall be due at the Regular Class ~~regular~~ membership rate effective with the first salary paid on or after the first day of the month the member becomes a Regular Class ~~regular~~ member.

(b) If the member does not accept the decision of the Division, he or she may petition the Division for an administrative hearing, pursuant to Section 120.57, F.S. Such request shall be made within the time limitations of Rule 28-106.201, F.A.C. Model Rule 28-5.201, F.A.C.

(9) Appeal – Within 90 days of receipt of the application, the Division of Retirement shall determine whether or not the member meets the requirements for Special Risk Administrative Support Class ~~special risk administrative support~~ membership. If it is determined that the member does not meet the requirements, the Division shall notify the member by certified mail, with a copy to his or her employer, of the Division’s intended decision to disapprove the member’s application for Special Risk Administrative Support Class ~~special risk administrative support~~ membership. This notice shall include a summary of the factual, legal and policy grounds for the intended decision.

(a) When a member receives notice that the Division intends to deny his or her application for Special Risk Administrative Support Class membership, he or she shall have 21 ~~20~~ calendar days to present written evidence or objections challenging the grounds upon which the Division has based its intended decision. If the Division receives no objections, final denial will be issued by the Division by certified mail at the conclusion of the 21 ~~20~~ days.

(b) If objections are received in accordance with (a) above, the Division shall within 20 calendar days of receipt of the objections provide a written explanation to the member by certified mail, giving the reasons for final acceptance or denial of the application. A copy of its written explanation shall be sent to the member’s employer.

(c) If the member does not accept the decision of the Division, the member may petition the Division for an administrative hearing on the denial of his or her application for Special Risk Administrative Support Class membership, pursuant to Section 120.57, F.S. Such request should be made within the time limitations of Rule 28-106.201, F.A.C. Model Rule 28-5.201, F.A.C.

(d) A member who receives a final affirmative ruling on his or her appeal for Special Risk Administrative Support Class membership shall have such membership retroactive to the date the member would have had Special Risk Administrative Support Class membership had such membership been approved by the employer and the Division as determined by the Division; and the employer contributions shall be paid in full within one year of such final ruling.

Rulemaking Specific Authority 121.031, 121.0515(7)(c) FS. Law Implemented 121.0515(7) FS. History–New 10-12-82, Amended 4-17-85, Formerly 22B-1.054, 22B-1.0054, Amended 1-25-94, 10-11-94, 9-17-03, _____.

60S-1.0055 Elected Officers’ Class.

(1) Compulsory Membership in the Elected Officers’ Class shall be compulsory, except as provided in subsection (2), for any person elected, reelected, or appointed to an office listed below, on and after the specified dates when the subclass was included in the system:

Offices	Dates Included in Elected Officers’ Class
Governor, lieutenant governor, cabinet officer, legislator, supreme court justice, district court of appeal judge, circuit judge, state attorney;	7/1/72
County court judge;	10/1/74
Public defender;	7/1/77
Public service commissioner;	7/1/72 through 6/30/79
Any constitutional elected county officer including any sheriff, tax collector, property appraiser, supervisor of elections, clerk of the circuit court, county commissioner, district school board member, elected district school board superintendent, and any elected officer of any entity with county wide jurisdiction who, pursuant to general or special law, exercises powers and duties that except for such law would be exercised by a constitutional elected county officer.	7/1/81
<u>Any elected officer of any entity with county-wide jurisdiction who, pursuant to general or special law, exercises powers and duties that except for such law would be exercised by a constitutional elected county officer.</u>	7/1/86

Any elected officer of a municipality or <u>independent</u> special district designated by the governing body between July 1, 1997 and December 31, 1997.	7/1/97
Any elected officer of a municipality or <u>independent</u> special district designated by the governing body between July 1, 2001 and December 31, 2001.	7/1/01
Any elected officer of a municipality or <u>independent</u> special district designated by the governing body between July 1, 2009 and December 31, 2009.	7/1/09
Elected officers of a municipality or independent special district designated by governing body at the time the entity joins the Florida Retirement System.	1/1/10

(2) Optional Membership – Any elected officer listed in subsection (1) who is dually employed may elect membership in another class for which he or she is eligible, or such officer may withdraw from participating in the Florida Retirement System in any manner whatsoever as follows:

(a) Any elected officer who is or becomes dually employed and a member of the Florida Retirement System or one of the existing systems may elect membership in any system or class for which he or she is eligible as provided in Rule 60S-1.008, F.A.C. The elected officer shall notify the Division in writing of his or her decision within 6 months of becoming dually employed.

(b) Any elected officer may elect to withdraw from participating in the Florida Retirement System altogether, except for elected officers with renewed membership as provided in subsection 60S-1.0055(4), F.A.C., as follows:

1. Within 6 months of assuming office the elected officer shall file their election to withdraw in writing to the Plan Choice Administrator as provided in subparagraph 60S-1.004(2)(c)3., F.A.C. ~~shall notify the Division in writing of his decision to withdraw and shall file a copy with his employer.~~

2. Upon notification to the Division of such election to withdraw, ~~receipt of such withdrawal request~~, the Division shall refund all contributions made by the elected officer, unless the elected officer has a vested right under the Florida Retirement System, in which case he or she shall not be permitted to receive a refund of contributions.

3. Any elected officer who withdraws from the Florida Retirement System in accordance with this paragraph, may rejoin the Florida Retirement System by submitting a written request to the Division. Membership shall be effective the first day of the month during which the Division receives such written request. Service credit for such period of withdrawal may be claimed as provided in Rule 60S-2.0042, F.A.C.

(c) Any elected sheriff may choose membership in the Special Risk Class in lieu of the Elected Officers’ Class. Within 6 months after his or her election or reelection such officer must notify the Division, in writing of his or her decision to remain in or choose membership in the Special Risk Class ~~class~~.

(d) through (f) No change.

(3) Membership Not Permitted –

(a) Any member of the Elected Officers’ Class who fails to win reelection to an office covered by the Elected Officers’ Class, and who returns to a position covered under the Florida Retirement System, shall receive credit thereafter based on the class of membership of his or her position.

(b) Any public service commissioner who was removed from the Elected Officers’ Class on July 1, 1979 in accordance with Chapter 79-375, Laws of Florida, shall retain any retirement credit earned in the Elected Officers’ Class as of that date. If such an officer has earned 8 years of credit in the Elected Officers’ Class he or she shall be eligible for retirement in accordance with Rule 60S-4.003, F.A.C.

(4) Renewed membership in the Elected Officers’ Class –

(a) Any retired member of a state-administered retirement system who, on and after July 1, 1990 and through June 30, 2010, holds an elective office covered by the Elected Officers’ Class, except as provided in paragraph (f), shall be enrolled in the Elected Officers’ Class, or, effective July 1, 1997 and through June 30, 2010, such elected officer may elect renewed membership in the Senior Management Service Class as provided in Rule 60S-1.0045, F.A.C., and may elect to participate in the Senior Management Service Optional Annuity Program or a local agency annuity program in lieu of the Senior Management Service Class as provided in paragraph 60S-1.0057(7)(c) or (d) ~~60S-1.0057(7)(b) or (e)~~, F.A.C. Such elected officer who becomes a member of the Elected Officers’ Class shall be eligible to elect to participate in the FRS Investment Plan as provided in Section 121.4501, F.S., or to receive a second career benefit in the FRS Pension Plan as follows:

1. The officer shall be eligible to receive retirement benefits as well as compensation for service as an elected officer, and shall not be subject to the reemployment limitations provided in Rule 60S-4.012, F.A.C.

2. The officer shall be entitled to receive an additional retirement benefit as provided in paragraph 60S-4.004(1)(c), F.A.C., if such officer satisfies vesting requirements as provided in Rule 60S-4.003, F.A.C. ~~completes at least eight years of service in the Elected Officers’ Class.~~ Such service

may include credit for post-retirement service as an elected officer prior to July 1, 1990 that the officer claims under the Elected Officers' Class pursuant to paragraph 60S-2.008(2)(a), F.A.C.

3. through 4. No change.

(b) through (d) No change.

(e) Any such officer who held an elected office prior to July 1, 1990, suspended his or her retirement benefit, and reinstated his or her Florida Retirement System membership shall have his or her retirement benefit recomputed using such period of creditable reemployment as provided in subsection 60S-2.008(1), F.A.C.

(f) No change.

(g) Renewed membership in the Florida Retirement System is closed to any retiree of a state administered retirement system who is initially reemployed on or after July 1, 2010.

Rulemaking Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.031, 121.051, 121.052, 121.053 FS. History--New 11-6-84, Amended 4-17-85, Formerly 22B-1.055, Amended 3-11-87, 11-14-91, Formerly 22B-1.0055, Amended 3-18-93, 2-24-99, 9-17-03,_____.

60S-1.0057 Senior Management Service Class (SMSC).

(1) Compulsory Membership – Membership in the Senior Management Service Class shall be compulsory, except as provided in subsection 60S-1.0057(7)(2), F.A.C., for any member of the Florida Retirement System or an existing system who holds any of the following positions:

<u>Position</u>	<u>Effective date</u>
<u>(a) Positions assigned to the Senior Management Service, as provided in Part III of Chapter 110, F.S., and Chapter 60L-31, F.A.C.</u>	<u>February 1, 1987 and after</u>
<u>(b) Certain legislative positions as follows:</u> <ul style="list-style-type: none"> • <u>Up to 75 nonelective positions at the level of committee staff director or higher or equivalent managerial or policy-making positions within the House of Representatives, as selected by the Speaker of the House of Representatives.</u> • <u>Up to 50 nonelective positions at the level of committee staff director or higher or equivalent managerial or policy-making positions within the Senate, as selected by the President of the Senate.</u> • <u>All staff directors of Joint Committees of the Legislature.</u> • <u>The Auditor General and up to nine managerial or policy-making positions within his or her office as selected by the Auditor General.</u> • <u>The executive director of the Commission on Ethics.</u> 	<u>January 1, 1990</u>
<u>(c) Certain local agency positions as follows:</u> <ul style="list-style-type: none"> • <u>The president of each community college.</u> • <u>The manager of each participating city or county.</u> • <u>All appointed district school superintendents.</u> 	<u>January 1, 1990</u>
<u>(d) Certain State University System positions as follows:</u> <ul style="list-style-type: none"> • <u>State University System Executive Service positions.</u> • <u>State university presidents.</u> 	<u>January 1, 1991</u>
<u>(e) Certain State Board of Administration positions as follows:</u> <ul style="list-style-type: none"> • <u>The senior managers who have policy-making authority as determined by the Governor, the Chief Financial Officer, and the Attorney General acting as the State Board of Administration.</u> 	<u>January 1, 1991</u>

(f) Certain judicial system positions as follows: <ul style="list-style-type: none"> State Courts Administrator; Deputy State Courts Administrators; Clerk of the Supreme Court; Marshal of the Supreme Court; Executive Director of the Justice Administration Commission; Capital Collateral Regional Counsels; Clerks of the District Courts of Appeals; Marshals of the District Courts of Appeals; and Trial Court Administrators of each Judicial Circuit. 	January 1, 1994
Chief Deputy Court Administrator	June 1, 2002
(g) Certain Department of Military Affairs positions as follows: <ul style="list-style-type: none"> The Adjutant General, Assistant Adjutant General-Army, Assistant Adjutant General-Air, State Quartermaster, Director of Military Personnel, Director of Administration, and up to 4 additional directors as designated by the agency head, not to exceed a total of 10 positions. 	July 1, 1996
(h) Judges of compensation claims within the Department of Labor and Employment Security.	July 1, 1999
(i) Assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsels.	January 1, 2001
(j) Assistant attorneys general.	January 1, 2002
(k) Executive directors or staff directors of Metropolitan Planning organization participating in the FRS.	July 1, 2007

(2) Agency Optional Designation of SMSC Positions – certain positions within certain agencies may be designated for inclusion in the SMSC by the employing agency and if so designated shall have compulsory membership in the SMSC, except as provided in subsection 60S-1.0057(7), F.A.C., for any member of the Florida Retirement System or an existing system.

(a) These certain positions with certain agencies which may be designated for inclusion in the SMSC are as follows:

1. Effective January 1, 1994 – positions in the offices of the state attorney and the public defender in each judicial circuit may be designated for inclusion in the Senior Management Service Class as follows:

a. One nonelective full-time position may be designated for each state attorney’s office and each public defender’s office.

b. Additional nonelective full-time positions in such offices with 200 or more filled, regularly established positions may be designated, not to exceed 0.5 percent of the filled, regularly established positions in the office or agency.

2. Effective January 1, 1994, for local agencies such positions may be designated by each local agency employer as follows:

a. One nonelective full-time position may be designated for each local agency employer. Effective July 1, 2000, up to 10 nonelective full-time positions may be designated for each local agency employer.

b. Additional nonelective full-time positions in such agencies with 200 or more filled, regularly established positions may be designated, not to exceed 0.5 percent of the filled, regularly established positions in the office or agency. Effective June 17, 1998, additional nonelective full-time positions in such agencies with 100 or more filled, regularly established positions may be designated, not to exceed 1 percent of the filled, regularly established positions in the office or agency.

3. Effective July 1, 2007, for participating metropolitan planning organizations such positions may be designated by each metropolitan planning organization employer as follows:

a. Up to 10 nonelective full-time positions may be designated.

b. Additional nonelective full-time positions in such agencies with 100 or more filled, regularly established positions may be designated, not to exceed 1 percent of the filled, regularly established positions in the office or agency.

(b) Such designated positions must meet the following requirements:

1. The position must be managerial or policymaking; and
2. The position must be the head of an organizational unit, or responsible for effecting or recommending personnel, budget, expenditure, or policy decisions in its area of responsibility; and

3. The position must be one in which the employee filling the position is not subject to continuing contract and does not have civil service protection, that is, is subject to termination without cause.

(c) The employer designating such positions must:

1. Publish in a newspaper of general circulation in the county or counties affected, once a week for 2 consecutive weeks, a notice of intent to designate a position or positions for inclusion in the class; and

2. Complete Form SMSD-1 (Rev 08/00), Florida Retirement System Senior Management Service Class Designated Position Form, herein adopted by reference. The position number of the designated position, consisting of from 1 to 10 numeric digits, must be included on the Form SMSD-1.

(d) Inclusion of the position in the SMSC shall be effective on January 1, 1994 or, if Form SMSD-1 is received by the Division after February 20, 1994, on the first day of the month following the month in which Form SMSD-1 is received by the Division.

(3) Removal of Positions from the SMSC – Each local agency employer may between July 1, 1997 and December 31, 1997, reassess its designation of positions for inclusion in the Senior Management Service Class as provided in subsection (2), and may request removal of any such previously designated positions that it deems appropriate. Such removal of positions shall be effective on the first day of the month following receipt of written notification by the Division before January 1, 1998.

(a) Effective February 1, 1987 — positions assigned to the Senior Management Service, as provided in Part III of Chapter 110, F.S., and Chapter 60N-1, F.A.C.

(b) Effective January 1, 1990 — certain legislative positions as follows:

1. Up to 75 nonelective positions at the level of committee staff director or higher or equivalent managerial or policy-making positions within the House of Representatives, as selected by the Speaker of the House of Representatives.

2. Up to 50 nonelective positions at the level of committee staff director or higher or equivalent managerial or policy-making positions within the Senate, as selected by the President of the Senate.

3. All staff directors of Joint Committees of the Legislature.

4. The Auditor General and up to nine managerial or policy-making positions within his office as selected by the Auditor General.

5. The executive director of the Commission on Ethics.

(c) Effective January 1, 1990 — certain local agency positions as follows:

1. The president of each community college;
2. The manager of each participating city or county;
3. All appointed district school superintendents.

(d) Effective January 1, 1991 — certain State University System positions as follows:

1. State University System Executive Service positions.
2. State university presidents.

(e) Effective January 1, 1991 — certain State Board of Administration positions as follows:

1. The senior managers who have policy-making authority as determined by the Governor, Treasurer, and Comptroller acting as the State Board of Administration.

(f) Certain judicial system positions as follows:

1. Effective January 1, 1994:

- a. State Courts Administrator;
- b. Deputy State Courts Administrators;
- c. Clerk of the Supreme Court;
- d. Marshal of the Supreme Court;
- e. Executive Director of the Justice Administration Commission;
- f. Capital Collateral Regional Counsels;
- g. Clerks of the District Courts of Appeals;
- h. Marshals of the District Courts of Appeals; and
- i. Trial Court Administrators of each Judicial Circuit.

2. Effective June 1, 2002 — Chief Deputy Court Administrator.

(g) Effective January 1, 1994 — positions may be designated for inclusion in the Senior Management Service Class as provided below:

1. In the offices of the state attorney and the public defender in each judicial circuit, such positions may be designated by each state attorney and public defender as follows:

a. One nonelective full time position may be designated for each state attorney's office and each public defender's office.

b. Additional nonelective full-time positions in such offices with 200 or more filled, regularly established positions may be designated, not to exceed 0.5 percent of the filled, regularly established positions in the office or agency.

2. In local agencies such positions may be designated by each local agency employer as follows:

a. One nonelective full time position may be designated for each local agency employer. Effective July 1, 2000, up to 10 nonelective full time positions may be designated for each local agency employer.

b. Additional nonelective full-time positions in such agencies with 200 or more filled, regularly established positions may be designated, not to exceed 0.5 percent of the filled, regularly established positions in the office or agency. Effective June 17, 1998, additional nonelective full-time positions in such agencies with 100 or more filled, regularly established positions may be designated, not to exceed 1 percent of the filled, regularly established positions in the office or agency.

e. Each local agency employer may between July 1, 1997 and December 31, 1997, reassess its designation of positions for inclusion in the Senior Management Service Class as provided in subparagraph b., and may request removal of any such previously designated positions that it deems appropriate. Such removal of positions shall be effective on the first day of the month following receipt of written notification by the Division before January 1, 1998.

3. Such designated positions must meet the following requirements:-

a. ~~The position must be managerial or policymaking; and~~
 b. ~~The position must be the head of an organizational unit, or responsible for effecting or recommending personnel, budget, expenditure, or policy decisions in its area of responsibility; and~~

e. ~~The position must be one in which the employee filling the position is not subject to continuing contract and does not have civil service protection, that is, is subject to termination without cause.~~

4. The employer designating such positions must:

a. ~~Publish in a newspaper of general circulation in the county or counties affected, once a week for 2 consecutive weeks, a notice of intent to designate a position or positions for inclusion in the class; and~~

b. ~~Complete Form SMSD 1, Senior Management Service Class Designated Position Form, adopted in Chapter 60S-9, F.A.C. The position number of the designated position, consisting of from 1 to 10 numeric digits, must be included on the Form SMS 1.~~

5. ~~Inclusion of the position in the SMSC shall be effective on January 1, 1994 or, if Form SMSD-1 is received by the Division after February 20, 1994, on the first day of the month following the month in which Form SMSD-1 is received by the Division.~~

6. ~~Eligible employees filling designated positions must complete and submit application forms as provided in subsection 60S-1.0057(3), F.A.C.~~

(h) ~~Effective July 1, 1996 certain Department of Military Affairs positions including the Adjutant General, Assistant Adjutant General Army, Assistant Adjutant General Air, State Quartermaster, Director of Military Personnel, Director of Administration, and up to 4 additional directors as designated by the agency head, not to exceed a total of 10 positions.~~

(i) ~~Effective July 1, 1999 Judges of compensation claims within the Department of Labor and Employment Security.~~

(j) ~~Effective January 1, 2001 Assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsels.~~

(k) ~~Effective January 1, 2002 Assistant attorneys general.~~

(4)(+) Renewed Membership in the SMSC – Effective July 1, 1997 and through June 30, 2010, any retiree of a state-administered retirement system employed in a position

included in the Senior Management Service Class as provided in this subsection, shall have renewed membership in the Senior Management Service Class as provided in Rule 60S-1.0045, F.A.C. Any retiree of a state retirement system initially reemployed on or after July 1, 2010, is not eligible for renewed membership as provided in Sections 121.122 and 121.053, F.S.

(5)(+) Effective Date of Membership in the SMSC – The effective date of membership shall be the latest of the following dates:

(a) ~~1-~~ Date of inclusion of position in the Senior Management Service Class, or

(b) ~~2-~~ Date of appointment to a Senior Management Service Class position, or

(c) ~~3-~~ For members of existing systems or the Special Risk or Special Risk Administrative Support Classes who are eligible for the options provided in subsection 60S-1.0057(7)(2), F.A.C., the first day of the month during which such member files his or her written election makes application for membership in the Senior Management Service Class, or 90 days after employment begins in a Senior Management Service Class position for such member who fails to elect membership in the Senior Management Service Class within such 90 day period.

(6)(+) Termination of Membership in the SMSC – Membership in the Senior Management Service Class shall cease when a member terminates employment in a Senior Management Service Class position.

(7)(2) Optional Membership – Membership in the Senior Management Service Class shall be optional for certain eligible members according to the following:

(a) Any member holding a position eligible for membership in the Senior Management Service Class who is a member of an existing retirement system may elect to remain in such system in lieu of participation in the Senior Management Service Class as follows:

1. Such election shall be made in writing with the personnel office of the employer and the Division within 90 days after employment begins in a Senior Management Service Class position.

2. Any such employee who fails to elect to remain in such system within such 90-day period shall be a compulsory member of the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C.

(b)(a) Any member holding a position eligible for membership in the Senior Management Service Class position as provided in paragraphs 60S-1.0057(1) (a), (b), (e), (f), (g) and (h) (e), (d), and (e), F.A.C., who is a member of an existing retirement system, or the Special Risk Class or the Special Risk Administrative Support Class of the Florida Retirement System, may elect to remain in such system or class in lieu of participation in the Senior Management Service Class as follows:

1. Such election shall be made in writing, ~~as provided in subsection 60S-1.0057(3), F.A.C.,~~ and filed with the personnel office of the employer and the Division within 90 days after employment begins in a Senior Management Service Class position.

2. Any such employee who fails to elect to remain in such ~~system or~~ class, or elect to participate in the Senior Management Optional Annuity Program as provided in paragraph 60S-1.0057(7)(c), ~~(2)(b)~~, F.A.C., within such 90-day period, shall be a compulsory member of the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C.

3. If a Special Risk Class or a Special Risk Administrative Support Class member wishes to make such an election, the Senior Management Service Class position to which he or she is assigned must be an eligible Special Risk Class or Special Risk Administrative Support Class position.

~~(c)(b)~~ Any member of the Florida Retirement System Pension Plan or an existing system who is eligible for membership in the Senior Management Service Class as provided in paragraphs 60S-1.0057(1)(a), (b), (e), (f), (g), ~~(h), (i) and (7)(f)1., (2)(e)1.,~~ F.A.C., may elect to participate in the Senior Management Service Optional Annuity Program (SMSOAP) as provided in Section 121.055, F.S., and Chapter 60V, F.A.C., in lieu of the Senior Management Service Class as follows:

1. Such election shall be made in writing to the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., within the 90-day period of the commencement of such eligible employment as provided in Rule 19-11.006, F.A.C. Such election may be filed using the State Board of Administration designed form for ease of use; Form SMS-1, State Senior Management Service Employees Retirement Plan Form adopted by reference in subsection 60S-1.004(1), F.A.C., or alternatively the employee may choose to submit a separate document in lieu of Form SMS-1, to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election. Such election requires that a contract with a SMSOAP provider company be executed within that 90-day period, ~~as provided in subsection 60S-1.0057(3), F.A.C., and filed with the personnel office of the employer and the Division within 90 days after employment begins in a Senior Management Service Class position.~~ The effective date of such member's participation in the Senior Management Service Optional Annuity Program shall be the date of employment or the first day of any month in which such election is received by the Plan Choice Administrator within during the 90-day period after employment begins in the Senior Management Service Class position, if so specified by the member, as provided in subsection 60V-1.005(2), F.A.C.

2. Any such eligible employee who fails to elect to participate in the Senior Management Service Optional Annuity Program, and/or execute a contract with a SMSOAP provider company, or to make the election as provided in paragraph 60S-1.0057(7)(a) or (b) ~~(2)(a)~~, F.A.C., within such 90-day period, shall be a compulsory member of the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C.

~~(d)(e)~~ Any member of the Florida Retirement System Pension Plan or an existing system who is eligible for membership in the Senior Management Service Class as provided in paragraphs 60S-1.0057(1)(c), ~~(2)(a)2., (g)2., and (7)(f)2., F.A.C., (2)(e)2.,~~ F.A.C., may elect to withdraw from the Florida Retirement System altogether, in lieu of membership in the Senior Management Service Class as follows:

1. Such election shall be made in writing to the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., in accordance with Rule 19-11.006, F.A.C. Such election may be filed using the State Board of Administration form designed for ease of use; Form SMS-3, Local Senior Management Service Employees Retirement Plan Enrollment Form, adopted by reference in subsection 60S-1.004(1), F.A.C., or alternatively the employee may choose to submit a separate document in lieu of Form SMS-3, to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election ~~as provided in subsection 60S-1.0057(3), F.A.C., and filed with the personnel office of the employer and the Division.~~ The election to withdraw altogether shall be irrevocable for as long as the employee holds a position eligible for membership in the Senior Management Service Class. The effective date of such election shall be the first day of the month following the month in which the Plan Choice Administrator receives the written election Form SMS-3 is received by the Division.

2. Such members are not eligible to participate in the Senior Management Service Optional Annuity Program administered by the Division of Retirement.

~~(e)(d)~~ Any member of the Florida Retirement System Pension Plan or an existing system who is eligible for membership in the Senior Management Service Class as provided in paragraph 60S-1.0057(1)(d), F.A.C., shall by default be enrolled into the State University System Optional Retirement Program (SUSORP) prospectively upon such eligible employment and; except for those filling a mandatory SUSORP position, may choose between membership in the Florida Retirement System or participation in the SUSORP within 90 days of employment may elect to participate in the Optional Retirement Program of the State University System as provided in Section 121.35, F.S., and Chapter 60U, F.A.C., in lieu of the SMSC as follows:

1. Employees enrolled by default into the SUSORP, except for those filling a mandatory SUSORP position as provided in Section 121.051, F.S., may choose between membership in the Florida Retirement System or participation in the SUSORP within 90 days of employment by filing such election in writing with the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., not later than 4:00 p.m. Eastern Time on the 90th day from the employee's date of hire into the SUSORP eligible position in accordance with Sections 121.35 and 121.4501, F.S., and Rule 19-11.006, F.A.C. The eligible employee may use the State Board of Administration's designed form for ease of use; ORP-16, State University System Optional Retirement Program (SUSORP) Retirement Plan Enrollment Form, adopted by reference in subsection 60S-1.005(1), F.A.C., to file such election or alternatively the employee may choose to submit a separate document in lieu of Form ORP-16, to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election.

2. Employees who file an election to participate in the SUSORP, other than mandatory SUSORP participants who must elect this option, must also execute a contract with a SUSORP provider company no later than the 90th day from the employee's date of hire into the SUSORP eligible position in accordance with Sections 121.35 and 121.4501, F.S., and Rule 19-11.006, F.A.C., or shall by default have membership in the FRS commencing with the date of employment into the SUSORP-eligible position. Mandatory SUSORP participants must execute a contract with a SUSORP provider company otherwise contributions will not be allocated to a SUSORP provider company.

3. Employees enrolled by default in the SUSORP, except for mandatory SUSORP participants, who do not elect SUSORP participation and/or who do not execute a provider contract within the 90-day period as provided in subparagraph 2. or to make the election as provided in paragraph 60S-1.0057(1)(a) or (b), shall by default have membership in the FRS commencing with the date of employment into the SUSORP-eligible position.

4. An election to participate in SUSORP is irrevocable for as long as an employee remains in the SUSORP-eligible position.

1. Such election shall be made in writing, as provided in subsection 60S-1.0057(3), F.A.C., and filed with the personnel office of the employer and the Division within 90 days after employment begins in a Senior Management Service Class position.

2. Any such eligible employee who fails to elect to participate in the Optional Retirement Program of the State University System or to make the election as provided in paragraph 60S-1.0057(2)(a), F.A.C., within such 90-day period shall be a compulsory member of the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C.

(f)1.(e) Effective July 1, 1997, within 6 months of assuming office or within 6 months of July 1, 1997, the following elected officers eligible for membership in the Elected Officers' Class as provided in subsection 60S-1.0055(1), F.A.C., and who have not previously retired from a State of Florida administered retirement plan, may elect membership in the Senior Management Service Class in lieu of the Elected Officers' Class:

a.1- Any elected state officer; and

b.2- Any elected county, city, or independent special district officer.

2. Such elected officer may file their election in writing to the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., no later than the last business day of the 6th month after assuming elected office as provided in Sections 121.055, and 121.4501, F.S. and Rule 19-11.006, F.A.C., using the SBA designed form for ease of use; Form EOC-1, Elected Officers' Class Retirement Plan Enrollment Form adopted by reference in subsection 60S-1.004(1), F.A.C., or alternatively the employee may choose to submit a separate document in lieu of Form EOC-1 to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her election.

(g)(f) Assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsels shall not be eligible to participate in the Senior Management Service Optional Annuity Program.

(3) Employees who are eligible to participate in the Senior Management Service Class shall complete and submit to the Division of Retirement the following:

(a) State employees:

1. Employees who elect to participate in the Senior Management Service Class or the Senior Management Service Class Optional Annuity Program, as provided in paragraph 60S-1.0057(2)(b), F.A.C., shall complete and submit Form SMS-1, Senior Management Service Class Optional Annuity Program (SMSOAP)/FRS Ballot, adopted in Chapter 60S-9 F.A.C.

2. Elected officers who elect to participate in the Senior Management Service Class, as provided in paragraph 60S-1.0057(2)(e), F.A.C., or the Senior Management Service Class Optional Annuity Program as provided in paragraph 60S-1.0057(2)(b), F.A.C., shall complete and submit Form SMS-1, "Senior Management Service Class Optional Annuity Program (SMSOAP)/FRS Ballot or Form EOC-1, Florida Retirement System Ballot Form for Employees of Elected Officers' Class, adopted in Chapter 60S-9, F.A.C.

(b) Local employees:

1. Employees who elect to participate in the Senior Management Service Class shall complete and submit Form SMS-3, and Form SMSC Ballot/Enrollment Form for Local Agency Employees, adopted in Chapter 60S-9, F.A.C.

2. ~~Employees who elect to withdraw from the Florida Retirement System altogether, as provided in paragraph 60S-1.0057(2)(c), F.A.C., shall complete and submit Form SMS-3, and Form SMSC Ballot/Enrollment Form for Local Agency Employees.~~

~~(8)(4)~~ A member of the Senior Management Service Class shall retain all rights and creditable service accumulated in the Florida Retirement System or existing system prior to membership in the Senior Management Service Class.

Rulemaking Specific Authority 121.031, 121.4501(8)(a) FS. Law Implemented 27.701, 121.051, 121.055 FS. History—New 1-12-87, Amended 2-7-89, 9-5-90, 11-14-91, Formerly 22B-1.0057, Amended 1-25-94, 8-4-94, 12-12-96, 2-24-99, 9-17-03, _____.

60S-1.007 Admission of Cities, Independent Special Districts, Metropolitan Planning Organizations, Public Charter Schools and Public Charter Technical Career Centers and to the Florida Retirement System.

(1) Social Security Coverage Required – Any city or independent special district or unit thereof, or metropolitan planning organization, public charter school or public charter technical career center desiring to participate in the Florida Retirement System must be approved for social security coverage by the United States Secretary of Health and Human Services and the Administrator prior to participating in the Florida Retirement System. Application for social security coverage shall be made to the Administrator in accordance with Chapter 650, F.S.

(2) Request for Membership – The governing body of the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center desiring to participate in the Florida Retirement System shall submit a request to the Administrator. This request must indicate whether or not the present officers and employees are covered by a retirement system and whether or not they are covered by social security.

(3) Ordinance ~~ordinance~~ or Resolution – The Administrator shall furnish the governing body of the city, ~~or independent~~ special district, metropolitan planning organization, public charter school or public charter technical career center a sample ordinance or resolution, whichever is applicable, which may be used by the governing body of the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center in setting forth the terms under which the benefits of the Florida Retirement System will be extended to the officers and employees of the covered group.

(4) The ordinance adopted by a city and the resolution adopted by an a independent special district, metropolitan planning organization, public charter school or public charter technical career center shall include the following:

(a) Designation of those officers and employees who are eligible and those officers and employees who are not eligible for participation in the Florida Retirement System.

(b) A declaration of the intent of the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center to extend the benefits of the Florida Retirement System to all eligible officers and employees as of a specific date.

(c) Designation of an official of the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center to execute agreements and amendments thereto with the Director of the Division of Retirement.

(d) Provisions for withholding from employees' compensation each pay period the social security contributions required by Rule 60S-3.010, F.A.C.

(e) Provisions for the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center to remit to the Division each pay period in accordance with Rule 60S-3.011, F.A.C., the contributions required to be paid pursuant to Rule 60S-3.003, F.A.C.

(f) Provisions for the establishment, maintenance, and submission of such records relating to the Florida Retirement System as are required by the Administrator.

(g) Certification of the effective date of the ordinance or resolution.

(5) Agreement – The governing body of each city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center not participating in an existing retirement system on November 30, 1970, which desires to participate in the Florida Retirement System shall be required to enter into an agreement with the Director of the Division of Retirement. The agreement shall include the following provisions:

(a) That benefits shall be provided for all eligible officers and employees in accordance with the provisions of Chapter 121, F.S., and these rules and regulations.

(b) That the required contributions for social security shall be deducted from the compensation of all members each pay period and shall be remitted as required by Rule 60S-3.010, F.A.C.

(c) That the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center shall remit to the Division each pay period in accordance with Rule 60S-3.011, F.A.C., the contributions required to be paid pursuant to Rule 60S-3.003, F.A.C.

(d) That failure of the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center to comply with the agreement with regard to the payment of employer and employee retirement contributions when due shall be the basis for the Administrator invoking the applicable provisions of Rule 60S-3.011, F.A.C.

(e) That the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center shall establish and maintain such records and make such reports relating to the Florida Retirement System as may be required by the Administrator.

(f) That the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center shall or shall not provide for all or any part of the past service of its employees. This part of the agreement shall be binding and irrevocable effective with the date of coverage in the Florida Retirement System.

1. If past service is to be provided, the agreement must stipulate the amount of past service to be provided by the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center. The cost of such past service shall be computed by the Division of Retirement. If the agency does not wish to pay the entire cost immediately, a 10% down payment shall be required and the balance shall be paid in yearly installments amortized over a period determined by the following formula: The average age of the employees of the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center joining the system is subtracted from 62 (normal retirement age for a Regular Class ~~regular~~ member of the Florida Retirement System), and the difference shall be the maximum number of years, not to exceed 15 years, over which the payments may be amortized. The agency may elect to amortize payments over a shorter period of time than the maximum years allowed. Interest charged shall be 4 percent compounded annually until July 1, 1975 and 6.5 percent compounded annually thereafter until date of payment.

2. At the time the agency begins participating in the Florida Retirement System, the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center shall provide certification of monthly service and earnings for all employees eligible to claim past service credit, whether or not the past service credit is purchased by the employer.

(g) That the agreement may not be revoked, except as provided in subsection 60S-1.007(8), F.A.C., and that all officers and employees employed on or after the effective date of the agreement shall be compulsory members of the Florida Retirement System as a condition of employment.

(6) Certified Financial Statement – The governing body of a city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center which has a local retirement system shall, prior to the city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center being approved for participation in the Florida Retirement System, submit to the Administrator a certified

financial statement showing the condition of the local retirement system as of a date within 3 months prior to the effective date of membership in the Florida Retirement System. The statement shall be certified by a recognized accounting firm which is independent of the local retirement system.

(7) All required documents necessary for extending Florida Retirement System coverage shall be delivered to the Division of Retirement for consideration at least 15 days prior to the effective date of coverage. If this is not complied with, the Division of Retirement may require that the effective date of coverage be changed.

(8) The governing body of a city or independent special district that participates in the Florida Retirement System may revoke its election to participate with an effective date of January 1, 1996, in accordance with the provisions of Section 121.0511, or 121.051(2)(b)5, F.A.C.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021(34), 121.051(2)(b), (3), 121.051, 121.0511 FS. History—New 1-1-72, Amended 12-31-74, 1-16-77, 8-26-81, 1-19-82, 11-6-84, Formerly 22B-1.07, Amended 5-19-91, Formerly 22B-1.007, Amended 3-12-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarabeth Snuggs, Director, Division of Retirement
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John P. Miles, Secretary, Department of Management Services
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010, Vol. 36/24

DEPARTMENT OF MANAGEMENT SERVICES
Division of Retirement

RULE NOS.:	RULE TITLES:
60S-1.00537	Criteria for Special Risk Class Membership-Certain Professional Health Care Workers
60S-1.00539	Criteria for Special Risk Class Membership-Forensic Disciplines

PURPOSE AND EFFECT: The purpose of the new proposed Rule 60S-1.00537, F.A.C., is to move the criteria for Special Risk Class Membership for Certain Professional Health Care workers previously found in paragraph 60S-1.0053(2)(e), F.A.C., under the section of rule titled, “Criteria for Special Risk Membership – Correctional Officers,” to an appropriately titled section of rule. The purpose of new proposed Rule 60S-1.00539, F.A.C., is to provide in rule the criteria for Special Risk Class membership for those employed in Forensic Disciplines as a result of statutory changes expanding the class to include those employed in such disciplines.

SUMMARY: The new rule sections set forth Special Risk Class membership criteria in accordance with statute.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

No State of Estimated Regulatory Cost was prepared. The agency has determined that this rule shall not have an effect on small businesses as defined by Section 288.703, Florida Statutes, nor on small counties or small cities as defined by Section 120.52, Florida Statutes.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimate regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

Not required because there are no adverse impacts on economic growth, business competitiveness or regulatory costs of more than \$1M in the aggregate within five years of implementation.

Any person who to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.021(15), 121.0515 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW

DATE AND TIME: November 4, 2011, 10:00 a.m., ET

PLACE: Division of Retirement of the Department of Management Services, Director's Conference Room, Suite 208, 1317 Winewood Blvd., Bldg 8, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706

THE FULL TEXT OF THE PROPOSED RULES IS:

60S-1.00537 Criteria for Special Risk Class Membership – Certain Professional Health Care Workers.

The criteria set forth below shall be used pursuant to Rule 60S-1.005, F.A.C., in determining membership in the Special Risk Class for members who are filling certain professional health care positions, regardless of the title of such a position.

(1) Effective January 1, 2001, a professional health care worker employed by the Department of Corrections or the Department of Children and Family Services who spends at least 75 percent of his or her time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution in one of the following positions and class codes: Dietitian (class codes 5203 and 5204); Public health nutrition consultant (class code 5224); Psychological

specialist (class codes 5230 and 5231); Psychologist (class code 5234); Senior psychologist (class codes 5237 and 5238); Regional mental health consultant (class code 5240); Psychological Services Director – DCF (class code 5242); Pharmacist (class codes 5245 and 5246); Senior pharmacist (class codes 5248 and 5249); Dentist (class code 5266); Senior dentist (class code 5269); Registered nurse (class codes 5290 and 5291); Senior registered nurse (class codes 5292 and 5293); Registered nurse specialist (class codes 5294 and 5295); Clinical associate (class codes 5298 and 5299); Advanced registered nurse practitioner (class codes 5297 and 5300); Advanced registered nurse practitioner specialist (class codes 5304 and 5305); Registered nurse supervisor (class codes 5306 and 5307); Senior registered nurse supervisor (class codes 5308 and 5309); Registered nursing consultant (class codes 5312 and 5313); Quality management program supervisor (class code 5314); Executive nursing director (class codes 5320 and 5321); Speech and hearing therapist (class code 5406); or Pharmacy manager (class code 5251).

Rulemaking Authority 121.031 FS. Law Implemented 121.021(15), 121.0515 FS. History—New _____.

60S-1.00539 Criteria for Special Risk Class Membership – Forensic Disciplines.

The criteria set forth below shall be used pursuant to Rule 60S-1.005, F.A.C., in determining membership in the Special Risk Class for members who are employed in a recognized forensic discipline regardless of the title of that position.

(1)(a) Effective October 1, 2005 through June 30, 2008, the member must be employed by an agency which either proclaims itself to be a law enforcement agency or a medical examiner's office and be employed in a forensic discipline recognized by the International Association for Identification (IAI) and must be eligible for membership in the IAI and the member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility.

Administrative support personnel, including, but not limited to, those whose primary duties are clerical or in accounting, purchasing, legal, and personnel, shall not be included.

(b) Effective July 1, 2008, the member with Special Risk Class membership based on the criteria of (a) shall be removed from the Special Risk Class.

(2)(a) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Division of State Fire Marshal in the forensic laboratory in one of the following positions and class codes: Forensic technologist (class code 8459); Crime laboratory technician (class code 8461); Crime laboratory analyst (class code 8463); Senior crime laboratory analyst

(class code 8464); Crime laboratory analyst supervisor (class code 8466); Forensic chief (class code 9602); or Forensic services quality manager (class code 9603).

(b) The member must be employed by a local government law enforcement agency or medical examiner's office and must spend at least 65 percent of his or her time performing duties that involve the collection, examination, preservation, documentation, preparation, or analysis of human tissues or fluids or physical evidence having potential biological, chemical, or radiological hazard or contamination, or use chemicals, processes, or materials that may have carcinogenic or health damaging properties in the analysis of said evidence, or the member must be the direct supervisor of one or more individuals having such responsibility.

Rulemaking Authority 121.031 FS. Law Implemented 121.021(15), 121.0515 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Sarabeth Snuggs, Director, Division of Retirement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John P. Miles, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010, Vol. 36/24

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE NOS.:	RULE TITLES:
60S-2.002	Statements of Policy
60S-2.003	Credit for Past Servic
60S-2.004	Credit for Prior Service
60S-2.0041	Credit Toward Special Risk Class Normal Retirement Date
60S-2.005	Credit for Military Service
60S-2.006	Credit for Leaves of Absence Under the Florida Retirement System
60S-2.007	Credit for Out-of-State and In-State Service
60S-2.009	Credit for Previous Service
60S-2.013	Credit for Upgraded Previous Service
60S-2.015	Value of Each Year of Creditable Service

60S-2.016 Credit for Periods of Suspension
Without Pay or Rescinded
Dismissal

60S-2.019 Credit for Unreported Service
PURPOSE AND EFFECT: The purpose and effect are to amend Division of Retirement rules to correspond with statutory changes up through the 2010 Legislative session and delete obsolete language.

SUMMARY: The amendments to this rule reflect the statutory changes allowing metropolitan planning organizations, public charter schools and public charter technical career centers to participate in the Florida Retirement System; the statutory changes regulating the purchase of past service credit by certain employees of the City of Jacksonville; the statutory changes identifying additional wartime military service dates that are eligible for purchase; and the statutory changes allowing certain special risk class members to purchase an upgrade of certain service within the purview of the class to special risk class service. In addition this rule deletes antiquated wartime military service dates; provides the formulary for the calculation of creditable military service credit; clarifies the historical definition of regularly established position chronologically for purposes of credit for Unreported Service; deletes obsolete rule requiring affidavits to substantiate service credit adjustments when records are not available under certain circumstances and incorporates by reference 10 Division forms into this rule that were previously adopted under Rule 60S-9.001, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No State of Estimated Regulatory Cost was prepared. The agency has determined that this rule shall not have an effect on small businesses as defined by Section 288.703, Florida Statutes, nor on small counties or small cities as defined by Section 120.52, Florida statutes.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimate regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

Not required because there are no adverse impacts on economic growth, business competitiveness or regulatory costs of more than \$1M in the aggregate within five years of implementation.

Any person who wishes to provide information regarding the statement of estimated costs or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 121.031, 121.052(7), (14), 238.175(2) FS.

LAW IMPLEMENTED: 120.045, 121.011(3), 121.021, 121.031, 121.051, 121.0515, 121.052, 121.053, 121.055, 121.071, 121.081, 121.091, 121.111, 121.1115, 121.1122, 121.121, 121.122, 121.125, 121.65(2), 122.07, 238.06(4), 238.07, 238.175 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 4, 2011, 10:00 a.m., ET

PLACE: Division of Retirement of the Department of Management Services, Director's Conference Room Suite 208, 1317 Winewood Blvd., Bldg. 8, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706

THE FULL TEXT OF THE PROPOSED RULE IS:

60S-2.002 Statements of Policy.

(1) The Administrator may require the submission of any evidence necessary to establish a member's claim of creditable service.

(2) A member shall not receive more than one a year of creditable service for any 12-month ~~twelve-month~~ period of employment.

(3) No change.

(4) Method for determining retirement service credit:

(a) A member's retirement service credit shall be measured in terms of years and fractions thereof during each fiscal year, as defined in subsection 60S-6.001(29)(28), F.A.C. A year of service credit consists of 12 months of service credit in a fiscal year (July 1 through June 30), except as otherwise provided herein pursuant to the Florida Statutes for employees whose approved work year is less than 12 months or whose approved service credit year is not July 1 through June 30. A member who earns 12 full months of service credit during the service credit year shall be granted one year of service credit for that year. A member who earns less than 12 months of service credit, except when a work year less than 12 months has been approved pursuant to Florida Statutes, shall receive a fraction of a year of service credit, such fraction to be determined by dividing the number of months and fractions thereof of service credit earned by 12. A member for whom a shorter work year has been approved pursuant to law shall receive a year of service credit if he or she earns a full month of service credit for each month of the approved work year. If such member earns service credit for fewer months than comprise his or her work year, he or she shall receive a fraction

of a year of service credit, such fraction to be determined by dividing the number of months and fractions thereof of service earned by the number of months in the approved work year.

(b) The approved work year pursuant to Florida Statutes for the purpose of determining service credit in accordance with this policy is as follows:

1. For academic ~~Academic~~ or instructional employees (including substitute teachers eligible for membership) of a district school board, participating public charter school or charter technical career center, community college, or state university: The work year shall be the number of months in the full contract year or nine months, whichever is greater, as specified by the contract between the employee and the school system in accordance with law (Chapters 1012 and 1001, F.S.). The approved work year for any member included in the definition of "teacher" in Section 238.01(3), F.S., who is not an employee of a district school board, participating public charter school or charter technical career center, community college, or state university, but whose work year is less than 12 ~~twelve~~ months, shall be the school or contract year or nine months, whichever is greater, as approved by the Division of Retirement.

2. For non-academic ~~Non-academic~~ or non-instructional employees (including teacher aides) of a district school board, participating public charter school or charter technical career center, community or junior college, or state university; or employees of a participating employer other than a school board whose total employment is to provide services to a school board for the school year only: The work year shall be the number of months in the school year, or nine months, whichever is greater, as certified by the employing agency, subject to review and approval by the Division of Retirement.

3. For seasonal ~~Seasonal~~ employees (pursuant to Sections 121.051(6)(a) and 122.07, F.S.): The work year shall be 12 months during the fiscal year.

4. For all ~~All~~ other employees: The work year shall be 12 months during the fiscal year.

5. For an ~~An~~ employee of any district school board, participating public charter school or charter technical career center, community or junior college, or state university, who moves from one position to another position having a different approved work year: If all employments are with any school, college, or university system of the state, all of his or her service credit for that fiscal year shall be based on the shortest work year under which any service credit was earned. If all employments are not with a school, college, or university system of the state, the employee's service credit for that fiscal year shall be based on each of the different work years under which service credit was earned.

(c) Except as otherwise provided in paragraph (d), monthly ~~Monthly~~ service credit shall be awarded as follows:

1. ~~For service~~ ~~Service~~ performed prior to July 1, 1974: A month of service credit shall be awarded for each month during which the member is paid a salary payment for employment.

2. ~~For service~~ ~~Service~~ performed on and after July 1, 1974: A month of service credit shall be awarded for each month during which the member is paid a salary payment of at least \$100. If a member is paid less than \$100 during a month of employment, his or her service credit for that month shall be a fraction of a month of credit, such fraction to be determined by dividing his or her actual salary payment by \$100.

3. ~~For service~~ ~~Service~~ performed on and after July 1, 1979: A month of service credit shall be awarded for each month during which the member is paid a salary payment of at least \$250. If a member is paid less than \$250 during a month of employment, his or her service credit for that month shall be a fraction of a month of credit, such fraction to be determined by dividing his or her actual salary payment by \$250. If a member earns \$250 in a month, but is paid less than that amount because of participation ~~he participates~~ in a deferred salary plan, he or she shall be entitled to receive a full month of service credit for each such month, provided the Division is notified and verification of deferred salary payments is submitted.

4. ~~For service~~ ~~Service~~ performed on and after July 1, 1985: A month of service credit shall be awarded for each month during which the member is paid a salary payment for employment.

(d)1. ~~For service performed prior~~ ~~Prior~~ to January 1, 1999, service credit for members holding an elective public office shall be granted as follows:

a. All elected public officials holding a commission of office from the Secretary of State shall receive service credit based on their terms of office.

b. All other elective public officers shall receive service credit in accordance with paragraph (c).

2. ~~For service performed on~~ ~~On~~ and after January 1, 1999, service credit for members holding an elective public office shall be granted in accordance with paragraph (c).

(e) ~~In~~ ~~Employers shall, in~~ accordance with instructions issued by the Division of Retirement, employers shall identify all members of the retirement systems who work for a school system (district school board, participating public charter school or charter technical career center, community college, or state university) whose work year is less than 12 months. Each such identification shall also indicate the number of months in the member's work year. If salary payments are made in a greater or lesser number of months than the work year due to agency payroll procedures, the work year reported shall be the lesser of either the number of months paid or the number of months in the work year except that it shall not be less than 9 months.

(f) Service credit shall not be granted beyond the month of termination at retirement or death, except as provided in subsection 60S-2.010(4), F.A.C.

~~(g) The Division of Retirement may adjust a member's record of service credit only upon presentation of evidence sufficient to warrant such adjustment. In the event official records are not available affidavits may be accepted as evidence of proof of employment or salary earned, provided the following conditions are met:~~

~~1. Affidavits are submitted by 2 people who have personal knowledge of the member's employment as supervisor or administrator of the employee at the time in question. If no former supervisor or administrator can be located, the affidavit of co-workers may be substituted.~~

~~2. The member's employer at the time in question provides the following:~~

~~a. A statement indicating why records for that period of time are not available. (If records are available and the employee does not appear on the records, the service credit shall not be creditable);~~

~~b. Copies of additional proof of employment such as the member's personnel file or some mention of the employee in board minutes, except when all agency records have been destroyed. (If records have been destroyed, compliance with a. and c. shall be sufficient);~~

~~c. The salary of the member on which the retirement contributions shall be based. Since no records are available this shall be the employer's best estimate using salaries of employees filling similar position at that time. Contributions shall be charged in accordance with subsection 60S-3.005(1)(c) or (3), F.A.C., as applicable for the service to be purchased.~~

~~3. An affidavit shall not be accepted to verify leaves of absence or out of state service.~~

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021, 121.031, 121.0515, 121.091, 121.111 FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 12-31-74, 1-16-77, 7-1-79, 12-22-80, 8-26-81, 2-6-84, 11-6-84, 4-17-85, Formerly 22B-2.02, Amended 2-4-86, 3-11-87, 9-5-90, Formerly 22B-2.002, Amended 2-24-99, 8-13-03,_____.

60S-2.003 Credit for Past Service.

Past service credit in the Florida Retirement System is available to the member for service rendered in seven ~~five~~ different sets of circumstances, with the particular set of circumstances under which the service is rendered determining the cost for claiming past service credit. The conditions and circumstances under which the past service credit may be claimed are as follows:

(1) Past service may be claimed by a member who was an officer or employee of a city, independent ~~or~~ special district, metropolitan planning organization, charter school, or charter technical school on the date it was approved for participation in the Florida Retirement System, subject to the following:

(a) The member must have been in the active employ of the city, ~~independent or special district, metropolitan planning organization, charter school, or charter technical school~~ on the date the city, ~~independent or special district or metropolitan planning organization, charter school, or charter technical school~~ commenced participating in the Florida Retirement System, and must have selected membership in the Florida Retirement System if such option was given;

(b) The member must have been filling a regularly established position, as defined in Rule 60S-6.001, F.A.C., during the period of service for which he or she claims past service credit;

(c) The member may not receive past service credit for any leaves of absence without pay, with the exception of active military service leaves of absence claimed in accordance with subsection 60S-2.005(1), F.A.C.;

(d) If the member does not desire to receive credit for all of his or her past service, the period he or she claims must be the most recent past service prior to his or her participation in the Florida Retirement System;

(e) Certification of monthly service and earnings for the past service claimed must be submitted by the member's employer; and

(f) The required contributions must be made in accordance with subsection 60S-3.004(1), F.A.C.

(g) Past service under this subsection may be claimed as Special Risk Class ~~special risk~~ service valued at 2% per year by current or former Special Risk Class ~~special risk~~ members of the Florida Retirement System. Such additional credit may be purchased at the time the employee becomes a member of the Florida Retirement System or at any time prior to retirement. In addition to conditions (a) through (f), the following conditions must be met:

1. The service must satisfy the criteria established for the Special Risk Class ~~special risk~~ as provided in Rule 60S-1.0051, 60S-1.0052, ~~or 60S-1.0053, 60S-1.00535 or 60S-1.00539~~, F.A.C., of these rules, except that a certificate or waiver of certificate shall not be required. Verification that the service satisfies the criteria shall be provided by the city, ~~or independent special district, metropolitan planning organization, charter school, or charter technical school~~ on Form FRS-401 (Rev. 07/99), Florida Retirement System Special Risk Credit for Past Service, herein adopted by reference, the forms provided by the Division and must be approved by the Division.

2. The member will be notified of the additional contributions required in accordance with paragraph 60S-3.004(1)(d), F.A.C. Such contributions may be paid by the member or by the employer on behalf of the member.

(2) A member who has service with a city, ~~independent or special district or metropolitan planning organization, charter school, or charter technical school~~ of the state which cannot be claimed under subsection (1) above, because the city, ~~or~~

~~independent special district, metropolitan planning organization, charter school, or charter technical school~~ has not joined the Florida Retirement System, because the member was not an employee of the city, ~~or independent special district, metropolitan planning organization, charter school, or charter technical school~~, at the time it commenced participating in the Florida Retirement System, or because the member rejected the Florida Retirement System at the time the city, ~~or independent special district, metropolitan planning organization, charter school, or charter technical school~~ began participating in the Florida Retirement System, may receive past service credit for employment with any city, ~~or independent special district, metropolitan planning organization, charter school, or charter technical school~~ of the state, subject to the following:

(a) The member must have been filling a regularly established position, as defined in Rule 60S-6.001, F.A.C., during the period of service for which he or she claims past service credit;

(b) through (d) No change.

(3) Past service credit may be claimed by a person who becomes a member of the Florida Retirement System by virtue of the transfer, consolidation or merger of governmental units or functions at any level of government or through the assumption of functions or activities by an employer under the system from an employing entity that was not an employer under the system. A person who, prior to becoming a member of the Florida Retirement System, became a member of an existing system prior to December 1, 1970 by virtue of a transfer, consolidation, merger or assumption of functions or activities as described herein, shall also be eligible to claim past service in accordance with this subsection. The following conditions shall apply to past service credit under this subsection:

(a) through (c) No change.

(d) If the member does not desire to receive credit for all of his or her past service, the period he or she claims must be the most recent past service prior to his or her participation in the Florida Retirement System;

(e) through (f) No change.

(g) Past service credit under this subsection may be claimed as Special Risk Class ~~special risk~~ service valued at 2% per year by current or former Special Risk Class ~~special risk~~ members of the Florida Retirement System. Such additional credit may be purchased at the time the employee becomes a Special Risk Class ~~special risk~~ member of the Florida Retirement System or at any time prior to retirement. In addition to conditions (a) through (f), the following conditions must be met:

1. The service must satisfy the criteria established for the Special Risk Class ~~special risk~~ as provided in Rule 60S-1.0051, 60S-1.0052, ~~or 60S-1.0053, 60S-1.00535, or 60S-1.00539~~, F.A.C., of these rules, except that a certificate or waiver of certificate shall not be required. Verification that the service

satisfies the criteria shall be provided by the city, ~~or independent special district, metropolitan planning organization, charter school, or charter technical school~~ on the forms provided by the Division. Such verification is subject to approval by the Division.

2. The member will be notified of the additional contributions and interest required in accordance with paragraph 60S-3.004(1)(d), F.A.C. Such contributions and interest may be paid by the member or by the employer on behalf of the member.

(4) No change.

(5) Past service may be claimed for retirement credit for the period of time a member was employed in a Multiple Offender Project funded by a Federal Government grant to a local government not covered by Chapter 121, F.S., if:

(a) through (b) No change.

(c) The member worked under the supervision of the State Attorney or his or her subordinate;

(d) through (e) No change.

(6) Past service with the City of Jacksonville prior to July 1, 2004, may be claimed for retirement credit by employees of the Fourth Judicial Circuit who were in an employee-employer relationship with the City of Jacksonville on June 30, 2004, and who became employees of the State Courts System on July 1, 2004, as a result of the implementation of Revision 7 to Article V of the State Constitution if:

(a) Credit for such service has not been and will not be granted under any other state or local retirement or pension system; and

(b) The required contributions are made in accordance with subsection 60S-3.004(6), F.A.C.

(7)(6) Past service may be claimed for retirement credit for the period of time a member was employed prior to July 1, 1996 by a dependent governmental entity within the jurisdiction of an independent participating agency when such independent agency failed to report such employee for membership in the Florida Retirement System as required by this chapter. Such employees may claim past service as provided in subsection 60S-2.003(1), F.A.C.

(8)(7) A member may not claim credit for past service which is used to qualify for a benefit under any retirement system.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021(18), 121.0515, 121.65(2), 121.081(1) FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 1-16-77, 8-26-81, 1-19-82, 1-18-83, 4-17-85, Formerly 22B-2.03, Amended 5-15-91, Formerly 22B-2.003, Amended 4-5-95, 12-12-96, _____.

60S-2.004 Credit for Prior Service.

(1) No change.

(2) The provisions for claiming prior service are as follows:

(a) The member must be reemployed for one complete year of creditable service within a period of 12 consecutive months except as provided in subsections 60S-2.010(3) and (4), F.A.C. Service which may be used to satisfy this requirement may include:

1. Any period of leave, with or without pay, after initial reemployment and during the 12-month period.

2. Service with more than one employer, provided the service is continuous.

3. Service performed as a participant of the State University System Optional Retirement Program ~~for the State University System~~ in accordance with Section 121.35, F.S., and Chapter 60U, F.A.C.

4. Service performed as a participant of the Senior Management Service Optional Annuity Program in accordance with Section 121.055, F.S., and Chapter 60V, F.A.C.

(b) The member must make the required contributions for such prior service in accordance with subsection 60S-3.005(1), F.A.C.

(c) If a member does not claim credit for all of his or her prior service, the service he or she claims must be his or her most recent period of service.

(3) A member who elected to transfer to the Florida Retirement System from an existing system may receive credit for prior service under the provisions of the existing system provided:

(a) He or she was eligible under the provisions of the existing system to claim the prior service at the time of the transfer.

(b) He or she makes the required contributions for such prior service as provided in subsection 60S-3.005(3), F.A.C.

(4) Prior service as described in paragraph (1)(a), (b), or (c) of this rule may only be claimed as Regular Class ~~regular~~ service. Prior service as described in paragraph (1)(d) or (e) will be credited according to the class of membership of the member during the period claimed. Prior service claimed as provided in subsection (3) above shall be credited in accordance with the provisions of the former system. Prior service as described in paragraph (1)(e) of this rule shall be credited in accordance with the provisions of the highway patrol pension plan in effect during the period claimed. However, if the member terminated and withdrew his or her retirement contributions, and was thereafter enrolled in the State and County Officers and Employees' Retirement System and/or the Florida Retirement System, the service shall be credited as Regular Class ~~regular~~ service in the Florida Retirement System.

(5) through (6) No change.

(7) Educational Leave with Pay – Employees of a state agency, who were members of a state administered retirement system and who were granted educational leave with pay

pursuant to a written educational leave with pay policy, may claim such periods of educational leave as prior service subject to the following conditions:

(a) through (c) No change.

(d) The employee must be a member of the Florida Retirement System at the time he or she claims such service; and

(e) through (f) No change.

(g) The member must make the required contributions for such prior service in accordance with paragraph 60S-3.005(1)(~~d~~)(~~e~~), F.A.C.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021, 121.081 FS. History—New 1-1-72, Amended 10-20-72, 1-16-77, 7-1-79, 1-19-82, 11-6-84, Formerly 22B-2.04, Amended 2-4-86, 3-11-87, 2-7-89, Formerly 22B-2.004, Amended 12-30-99, 8-13-03, _____.

60S-2.0041 Credit Toward Special Risk Class Normal Retirement Date.

Credit toward Special Risk Class Normal retirement date is earned for Special Risk Class ~~special risk~~ service, high hazard service in the State and County Officers and Employees' Retirement System, and service earned in the Highway Patrol Pension Fund. In addition, a Special Risk Class member or a former Special Risk Class member may receive credit toward such date for the following service:

(1) Service in the State and County Officers and Employees' Retirement System; service as a correctional counselor with the Department of Corrections between December 1, 1970 and September 30, 1979 including such service for which the member received a refund and which was reclaimed as prior service; or service in the State and County Officers and Employees' Retirement System (Chapter 122, F.S.), or in the Highway Patrol Pension Fund (Chapter 321, F.S.), for which the member received a refund and which was reclaimed as prior service under the Florida Retirement System. Such service shall have been performed as provided below.

(a) The position filled at that time shall satisfy the criteria as provided in Rule 60S-1.0051, 60S-1.0052 or 60S-1.0053, F.A.C., except the requirement for a certificate or waiver of certificate. The member shall apply for such credit and the agency shall provide verification ~~Verification~~ that the position satisfies the criteria on Form FRS-402 (Rev. 10/01), Florida Retirement System Application for Special Risk Equivalent Credit, herein adopted by reference, shall be provided by the agency on the forms provided by the Division and must be approved by the Division.

(b) through (c) No change.

(2) Service earned in the Special Risk Administrative Support Class, as provided below:

(a) through (b) No change.

(c) The percentage value of each year earned in the Special Risk Administrative Support Class shall be the value of Regular Class ~~regular~~ membership in the Florida Retirement System.

(d) Retroactive coverage in the Special Risk Administrative Support Class shall be granted as follows:

1. Any member filling an administrative support position during the period October 1, 1978 through June 30, 1982, shall be covered, provided the member meets the requirements of subsection 60S-1.0054(2), F.A.C., and was:

a. Removed from Special Risk Class membership effective October 1, 1978, due to a change in the Special Risk Class ~~special risk~~ criteria; or

b. Was reassigned or employed for training and/or career development or to fill a critical agency need.

2. The member must apply to the Division of Retirement and complete the member information section Section 2 of Form FRS-404 (Rev. 11/02), Florida Retirement System Application for Special Risk Administrative Support Class, herein adopted by reference, membership (FRS-404) prior to retirement to claim such credit. The employing agency at the time the service was performed shall complete the portion of the form verifying that the member filled a Special Risk Administrative Support Class position and retained his or her certification per Rule 60S-1.0051, 60S-1.0052, or 60S-1.0053, F.A.C., during the retroactive period.

3. Service in the Special Risk Administrative Support Class shall be granted without payment of additional contributions for the period October 1, 1978 through June 30, 1982.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021, 121.0515 FS. History—New 1-19-82, Amended 10-12-82, Formerly 22B-2.041, Amended 2-7-89, Formerly 22B-2.0041, Amended 8-13-03, _____.

60S-2.005 Credit for Military Service.

(1) Military Leave of Absence – A member may receive up to 5 years of retirement credit, or more if required for the convenience of the Federal Government as provided in the Uniformed Services Employment and Reemployment Rights Act, for active military service in the Armed Forces of the United States which interrupts continuous employment, regardless of whether or not an official leave of absence was granted, in accordance with the following:

(a) The member must be entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq. ~~4333~~, F.S., or other law applicable to such reemployment which provides that:

1. The member shall have been employed in a position other than temporary, and shall have left that position for the purpose of induction into the Armed Forces of the United States or entry for active duty in the Armed Forces of the

United States. When applied to the Florida Retirement System, “a position other than temporary” shall mean a regularly established position with a Florida Retirement System employer, and it shall be construed that the member left his or her employment for military purposes if he or she reported for active duty within 60 days of leaving such employment, unless a determination of the member’s entitlement to reemployment under the Uniformed Services Employment and Reemployment Rights Act is made by the Veterans’ Administration and submitted to the Division of Retirement by the member; and

2. The member shall have been discharged from the military service under honorable conditions; and

3. The member shall have applied for reemployment with the same employer within 90 days from his or her date of discharge or separation from active military service or within the time limits set forth in the Uniformed Services Employment and Reemployment Rights Act for hospitalization continuing after discharge, and was reemployed by such employer; and

(b) The member submits required documentation to the Division (DD214 or other official military document) showing the dates of entry into active duty and discharge from active duty; and

(c) The required employer contributions shall be paid by the employer if the member was released from military service on or after December 3, 1974, or by the member if he or she was released from military service prior to December 3, 1974 in accordance with subsection 60S-3.006(1), F.A.C. If any employee contributions are required they shall be paid by the member; and

(d) The member shall receive service credit in the membership class to which the member belonged immediately prior to his or her military service. Such service may be claimed immediately upon reemployment and shall count toward the years required for vesting.

(2) Wartime Military Service – A member whose initial date of employment in a regularly established position is before January 1, 1987, who has full-time, active “wartime” military service, other than active duty for training or attendance at a military academy, in the Armed Forces of the United States or in the Allied Forces for which he or she is not eligible to receive retirement credit as provided in subsection 60S-2.005(1), F.A.C., may receive retirement credit for such active wartime military service, not to exceed a total of 4 years, provided that:

(a) The member served one or more days of his or her military service during one of the following periods:

~~1. Spanish-American War: Service from April 21, 1898 through July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion.~~

~~2. Mexican Border Period: Service from May 9, 1916, through April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto.~~

~~3. World War I: Service from April 6, 1917 through November 11, 1918; extended through April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided that such veterans had at least 1 day of service between April 5, 1917 and November 12, 1918.~~

~~1.4. World War II: Service from December 7, 1941 through December 31, 1946. Wartime service as a member of the American Merchant Marine in Oceangoing Service from December 7, 1941 through August 15, 1945, may be credited only for such periods certified on a federal form DD214.~~

~~2.5. Korean Conflict: Service from June 27, 1950 through January 31, 1955.~~

~~3.6. Vietnam Era: Service from February 28, 1961 through May 7, 1975, and~~

~~4.7. Persian Gulf War: Service from August 2, 1990 through January 2, 1992 a date to be determined by presidential proclamation or by law.~~

~~5. Operation Enduring Freedom: October 7, 2001 through a date to be determined by presidential proclamation or by law.~~

~~6. Operation Iraqi Freedom: March 19, 2003 through a date to be determined by presidential proclamation or by law.~~

(b) The member’s wartime military service in the Allied Forces shall be limited to service with any nation which was allied with the United States in ~~World War I or~~ World War II; any nation which provided military contingents in support of the United Nations during the Korean conflict; or any nation which provided military assistance to South Vietnam in cooperation with forces of the United States during the Vietnam Era, and

(c) The member was discharged from the military service under honorable conditions, and

(d) The member is vested, and

(e) The member makes application to the Division to claim such military service credit and submits required documentation (DD214 or other official military document) showing the dates of entry into active duty and discharge from active duty, and

(f) The member pays the required contributions in accordance with paragraph 60S-3.006(2)(a) or (b), F.A.C.

(g) The member shall receive service credit in the Regular ~~Members’~~ Class for all wartime military service claimed under this subsection, regardless of the member’s class of membership, and

(h) The member shall not receive credit for any military service for which the member also receives credit under any federal or state retirement or pension system where “length of service” is a factor in determining the amount of compensation

received, except for a pension system providing retired pay for non-regular (i.e. Reserve and National Guard) service in the Armed Forces of the United States in accordance with 10 U.S.C. ss.1331 et seq. Chapter 67 of Title 10 of the United States Code. Credit for wartime military service for which the member also receives credit in a pension system providing retired pay for such non-regular service may be claimed as follows:

1. Any person whose retirement date under the Florida Retirement System is prior to July 1, 1985 may claim such service at any time, as provided in this subsection upon payment of contributions as provided in paragraph 60S-3.006(2)(b), F.A.C.

2. Any person whose retirement date is on or after July 1, 1985 must claim such service prior to the commencement of his or her retirement benefits, as provided in this subsection, and upon payment of contributions as provided in paragraph 60S-3.006(2)(a), F.A.C.

(i) Any member claiming credit in accordance with this subsection shall certify on Form MF-1 (Rev. 07/06), Florida Retirement System Pension Plan Statement of Military Eligibility, herein adopted by reference, the form prescribed by the Division that credit for such service has not and will not be claimed for retirement purposes under any federal or state retirement or pension system where “length of service” is a factor in determining the amount of compensation received, except where credit for such service has been granted in a pension system providing retired pay for non-regular (i.e. Reserve and National Guard) service in accordance with paragraph 60S-2.005(2)(h), F.A.C. In the event of the member’s death prior to retirement, the member’s beneficiary shall make the required certification. If such certification is not made by the member or the member’s beneficiary, credit for wartime military service will not be allowed.

(j) Service credit awarded for wartime military service shall be the total number of years, months and days from and including the date of entry into active duty through the date of discharge from active duty, up to a maximum of four years. If the military service includes a partial year, it shall be stated as a fraction of a year. Creditable military service shall be calculated as follows:

$$\text{Creditable military service} = \frac{A}{\pm} \frac{[B + (C/30)]}{12}$$

Where:

A is total complete years;

B is total complete months in excess of complete years; and

C is total days in excess of complete months.

Rulemaking Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.021, 121.052(5)(d), 121.111 FS. History–New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 1-16-77, 7-1-79, 1-19-82, 4-17-85, Formerly 22B-2.05, Amended 2-4-86, 2-7-89, 11-14-91, Formerly 22B-2.005, Amended 3-18-93, 4-5-95, 12-12-96, 2-24-99, 8-13-03,_____.

60S-2.006 Credit for Leaves of Absence Under the Florida Retirement System.

(1) A member may receive retirement credit for a total of two work years of creditable service for authorized leaves of absence under the Florida Retirement System, subject to the following:

(a) through (f) No change.

(g) The member shall make application to the Division for leave of absence retirement credit on Form FR-28 (Rev 06/04), Florida Retirement System Pension Plan Application to Purchase Retirement Credit for a Pension Plan Leave of Absence, herein adopted by reference.

(2) If a member is granted a leave of absence with full pay at the rate he or she was being paid prior to the leave of absence, and the compensation received during such period is paid in accordance with paragraph 60S-1.004(4)(a) or (b), F.A.C., the member shall not be considered on leave of absence for retirement purposes and the contributions required by Rule 60S-3.003, F.A.C., shall continue to be made and he or she shall continue to receive full retirement credit for the period he or she is on leave of absence with pay.

(3) If a member is granted a leave of absence with partial pay and the compensation received during such period is in accordance with paragraph 60S-1.004(4)(a) or (b), F.A.C., the contributions required by Rule 60S-3.003, F.A.C., shall continue to be made and he or she shall continue to receive full retirement credit for the period he or she is on leave of absence with pay. For this partial pay he or she shall receive credit in accordance with paragraph 60S-2.002(4)(c), F.A.C. However, the member may elect, upon his or her return from such leave, to make additional contributions in accordance with subsection 60S-3.007(2), F.A.C., and receive retirement credit for this period based on the full salary he or she was earning prior to the leave of absence. The purpose in making such contributions would be to permit the member’s full salary to be included in his or her average final compensation. If additional contributions are not made, only the member’s partial pay shall be used should such period be included in the member’s average final compensation.

(4) through (7) No change.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.071, 121.121 FS. History–New 1-1-72, Amended 10-20-72, 12-31-74, 1-16-77, 7-1-79, 8-26-81, 1-18-83, Formerly 22B-2.06, Amended 3-11-87, 2-7-89, 11-14-91, Formerly 22B-2.006, Amended 8-4-94, 2-24-99, 12-30-99, 8-13-03,_____.

60S-2.007 Credit for Out-of-State and In-State Service.

(1) Any member who is a seasonal state employee who works for and draws compensation from the State for a period of more than 6 calendar months during any fiscal year and who works for another state in the same or similar capacity during the same fiscal year, may receive retirement credit for the actual time employed by the other state during that fiscal year, in accordance with the following:

(a) He or she shall provide to the Division a statement from the state in which he or she was employed, listing days employed and monthly earnings.

(b) He or she shall make the required contributions in accordance with Rule 60S-3.008, F.A.C.

(2) A member of the Teachers' Retirement System who transferred to the Florida Retirement System and was eligible to claim retirement credit for out-of-state service under the Teachers' Retirement System at the time he or she transferred to the Florida Retirement System shall be allowed to claim, pay for, and receive retirement credit for out-of-state service in accordance with the provisions of the Teachers' Retirement System, subject to the following:

(a) through (c) No change.

(d) No member who receives or is entitled to receive a pension or annuity from any other state or county or municipality or taxing district may, by a withdrawal of contributions therefrom, become eligible to purchase credit for such out-of-state service under this section unless:

1. Said withdrawal of contributions completely divests the member of all rights under such other system, including the right to reinstate his or her eligibility for a benefit by repayment of the withdrawn contributions; or

2. Said withdrawal of contributions prevents the member under the provisions of such other system from reinstating his or her eligibility for a benefit unless he or she accepts reemployment in such state.

3. The member submits Form TR-4 (Rev. 04/99), Florida Retirement System Verification of Out-of-State Teaching Service, herein adopted by reference, completed by the certificate of the administrator of the retirement system of such other state, county, municipality or taxing district stating that he or she is ineligible for a benefit therein. Such form certificate should, if possible, be obtained by the member prior to submitting his or her application for retirement and should be attached to his or her application.

(3) A member of the Florida Retirement System may purchase credit for up to 5 years of out-of-state public employment; employment with the federal government (which may include military service not claimed under Rule 60S-2.005, F.A.C.); non-FRS, in-state public employment; or in-state employment in charter schools, charter technical career centers, or nonpublic schools and colleges accredited by the Southern Association of Colleges and Schools; as follows:

(a) through (d) No change.

(e) A member of the Florida Retirement System Pension Plan who wishes to claim such service shall obtain the following from the out-of-state or in-state employer's retirement or pension plan on Form FR-30 (Rev. 07/04), Florida Retirement System Pension Plan Verification for In-State or Out-of-State Service Credit, herein adopted by reference; or on Form FR-30a (Rev. 07/04), Florida Retirement System Pension Plan Out-of-State Employer Request, herein adopted by reference, if the information provided by the out-of-state in-state employer's retirement or pension plan on Form FR-30 is incomplete; or in the case of a deceased member, a beneficiary who wishes to claim such service on the behalf of the member shall obtain the following from the out-of-state or in-state employer's retirement or pension plan on Form FR-30b (Rev. 07/99), Florida Retirement System Pension Plan Verification for In-State or Out-of-State Service Credit, herein adopted by reference; adopted in Rule 60S-9.001, F.A.C.:

1. A statement verifying that the member was a member of a retirement or pension plan provided by the employer and to which the employer paid contributions, and that he or she has not been, is not, and will not be eligible to receive either a lump sum distribution, other than a refund of member contributions, or a continuing benefit from that plan based on that service.

2. Certification of years and partial years of service by fiscal year, and length of work year.

(f) The service shall be claimed and credited as Regular Class service.

(g) A member shall be eligible to receive credit for such service performed after leaving the Florida Retirement System only upon return to membership and completion of a least 1 year of creditable service following the out-of-state or in-state service.

(h) The required contributions shall be paid by the member or his or her employer as provided in subsection 60S-3.008(3), F.A.C.

(i) A member claiming military service under these provisions must also complete and submit to the Division, Form MF-2 (Rev. 07/06), Florida Retirement System Pension Plan Statement of Military Eligibility to Purchase Military Service under the Out-of-State Provisions, herein adopted by reference, attesting to the fact that the military service for which he or she requests credit has not and will not be claimed for retirement purposes under any other public pension plan.

Rulemaking Specific Authority 121.031 FS. Law Implemented 120.045, 121.021, 121.051(6)(a), 121.1115, 121.1122, 122.07, 238.06(4) FS. History—New 1-1-72, Amended 8-20-75, 8-5-76, 7-1-79, Formerly 22B-2.07, 22B-2.007, Amended 3-18-93, 4-5-95, 12-12-96, 2-24-99, 8-13-03,_____.

60S-2.009 Credit for Previous Service.

A member who has earned creditable service under state-administered retirement system and has terminated his or her employment without retiring, leaving his or her

contributions on deposit, shall upon his or her return to employment under the Florida Retirement System, receive credit for all previous service in accordance with the provisions of the retirement system under which the service was earned. Additional service earned under the Florida Retirement System shall be added to all of his or her previous service and used in the calculation of any benefits which may be payable in accordance with Chapter 60S-4, F.A.C. No application or additional contributions shall be required to claim credit for previous service, except as provided in Rule 60S-2.013, F.A.C., for a member who upgrades previous service within the purview of the Elected Officers' Class, ~~or~~ the Senior Management Service Class, or Special Risk Class.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.011(3) FS. History--New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Formerly 22B-2.09, Amended 5-15-91, Formerly 22B-2.009, Amended 4-5-95, _____.

60S-2.013 Credit for Upgraded Previous Service.

(1) A current or former member of the Elected Officers' Class, or former elected officer as provided in paragraph (b) may upgrade to the Elected Officers' Class creditable service earned as an elected officer within the purview of that class as provided in subsection 60S-1.0055(1), F.A.C., by notifying the Division ~~in writing~~ of his or her desire to receive credit for such service and making the required contributions in accordance with Rule 60S-3.013, F.A.C. Such creditable service shall include:

(a) Service earned in any state-administered retirement system prior to the officer's membership in the Elected Officers' Class; or

(b) Service earned by a member who served after the applicable subclass of the Elected Officers' Class was established, where the officer chose to participate in a membership class of the Florida Retirement System other than the Elected Officers' Class;

(c) Service as a county solicitor, elected county prosecuting attorney, county judge, judge of a court of record, judge of a criminal or civil court of record, or judge of any metropolitan court established pursuant to section 6 of Article VIII of the State Constitution, judge of a small claims court or justice of the peace. Such service may be upgraded by a member of the Elected Officers' Class.

(2) A member of the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C., who has earned creditable service within the purview of the Senior Management Service Class may purchase additional retirement credit in the Senior Management Service Class for such service retroactive to February 1, 1987, provided that:

(a) He or she notifies the Division ~~in writing~~ of his or her desire to receive credit for such service, and

(b) The required contributions are made in accordance with Rule 60S-3.013, F.A.C.

(3) If the member does not claim credit for all of the previous service as provided in subsection (1), (2), (5), ~~and~~ (6) and (7), the service claimed must be the most recent period of service.

(4) A reemployed retiree with renewed membership in the Senior Management Service Class who has earned post-retirement creditable service in the Regular Class which was within the purview of the Senior Management Service Class may purchase additional retirement credit in the Senior Management Service Class, as provided in subsection (2), for such service from February 1, 1987 through June 30, 1997. Such service may be used toward a second career benefit as provided in Rule 60S-1.0045, F.A.C.

(5) A state attorney or state public defender in the Elected Officers' Class may purchase additional retirement credit in the Senior Management Service Class for previous service as an assistant state attorney or assistant state public defender in accordance with subsection (2).

(6) A Special Risk Class member may upgrade to the Special Risk Class previous service that included fire prevention or firefighter training within the purview of the Special Risk Class as provided in subsection 60S-1.0052(2), F.A.C., provided that:

(a) He or she notifies the Division ~~in writing~~ of his or her desire to receive credit for such service, and

(b) The required contributions are made in accordance with subsection 60S-3.013(4) ~~60S-3.012(4)~~, F.A.C.

(7) A Special Risk Class member may upgrade to the Special Risk Class previous service as a medical technician or paramedic within the purview of the Special Risk Class as provided in Rule 60S-1.00535, F.A.C., provided that:

(a) He or she notifies the Division of his or her desire to receive credit for such service; and

(b) The required contributions are made in accordance with subsection 60S-3.013(5), F.A.C.

(8) A Special Risk Class member may upgrade to the Special Risk Class previous service in a forensic discipline within the purview of the Special Risk Class as provided in Rule 60S-1.00539, F.A.C., provided that:

(a) He or she notifies the Division of his or her desire to receive credit for such service; and

(b) He or she is employed in a forensic discipline meeting the Special Risk Class criteria of subsection 60S-1.00539(2), F.A.C.; and

(c) The previous service to be upgraded meets the Special Risk Class criteria of subsection 60S-1.00539(2), F.A.C.; and

(d) The cost to upgrade such previous service, pursuant to Section 121.0515(9)(c), F.S., is paid in full within 60 days of the date on the Division's notification of such cost to the member.

Rulemaking Specific Authority 121.052(7) FS. Law Implemented 121.052, 121.055 FS. History—New 10-20-72, Amended 12-31-74, 1-16-77, 7-1-79, 8-26-81, 4-17-85, Formerly 22B-2.13, Amended 3-11-87, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-2.013, Amended 4-5-95, 2-24-99, 8-13-03.

60S-2.015 Value of Each Year of Creditable Service.

(1) No change.

(2) Each complete year of creditable service earned and claimed under the Florida Retirement System shall have the percentage value indicated below, which shall represent the percentage of the member's average final compensation (AFC) that each complete year of creditable service having that same percentage value shall entitle him or her to receive under Option 1 upon his or her normal retirement:

(a) Each year of creditable service as a Regular Class ~~regular~~ member shall be worth:

1.60% of AFC when retiring at age 62

1.63% of AFC when retiring at age 63

1.65% of AFC when retiring at age 64

1.68% of AFC when retiring at age 65 or over, not to exceed 1.68%;

OR

1.60% of AFC when retiring with 30 years of creditable service

1.63% of AFC when retiring with 31 years of creditable service

1.65% of AFC when retiring with 32 years of creditable service

1.68% of AFC when retiring with 33 years of creditable service or more, not to exceed 1.68%

(b) Each year of creditable service earned as a Special Risk Class ~~special risk~~ member shall be worth:

2% of AFC for service from December 1, 1970 through September 30, 1974;

3% of AFC for service from October 1, 1974 through September 30, 1978;

2% of AFC for service from October 1, 1978 through December 31, 1988;

2.2% of AFC for service from January 1, 1989 through December 31, 1989;

2.4% of AFC for service from January 1, 1990 through December 31, 1990;

2.6% of AFC for service from January 1, 1991 through December 31, 1991;

2.8% of AFC for service from January 1, 1992 through December 31, 1992; and

3% of AFC for service on and after January 1, 1993.

Effective July 1, 2000, for members retiring after that date, 3% of AFC for service on and after October 1, 1978.

(c) Each year of creditable service as a Special Risk Class Administrative Support Class ~~special risk administrative support~~ member shall be worth:

When the member has satisfied the vesting requirements for the Special Risk Class but has less than 25 years of creditable Special Risk Class Administrative Support Class ~~special risk administrative support~~ and Special Risk Class ~~special risk~~ service, the Special Risk Class Administrative Support Class ~~administrative support~~ service shall be worth:

1.60% of AFC at age 55

1.63% of AFC at age 56

1.65% of AFC at age 57

1.68% of AFC at age 58 or over, not to exceed 1.68%;

OR

When retiring with 25 or more years of creditable Special Risk Class Administrative Support Class ~~special risk administrative support~~ and Special Risk Class ~~Special risk~~ service that includes credit for military service, the Special Risk Administrative Support Class ~~administrative support~~ service shall be worth the greater of:

1.60% of AFC with a minimum of 25 years of creditable service at age 52 or older, or

1.63% of AFC with a minimum of 26 years of creditable service at age 53 or older, or

1.65% of AFC with a minimum of 27 years of creditable service at age 54 or older, or

1.68% of AFC with a minimum of 28 years of creditable service at age 55 or older, not to exceed 1.68%;

OR

When retiring with 25 or more years of creditable Special Risk Administrative Support Class ~~special risk administrative support~~ and Special Risk Class ~~special risk~~ service, regardless of age, the Special Risk Administrative Support Class ~~administrative support~~ service shall be worth:

1.60% of AFC with 25 years of creditable service

1.63% of AFC with 26 years of creditable service

1.65% of AFC with 27 years of creditable service

1.68% of AFC with 28 or more years of creditable service, not to exceed 1.68%

(d) Upon reaching normal retirement date, each year of creditable service as an elected state and county officer member shall be worth:

1. 3-1/3% of his or her AFC for all service in the Elected Officers' Class as a supreme court justice, district court of appeal judge, circuit court judge, or a county court judge;

2. 3-1/3% of his or her AFC for service for which additional credit is purchased pursuant to Rule 60S-2.013, F.A.C., and which was earned in one of the positions listed in paragraph 60S-2.013(1)(c), F.A.C.;

3. 3% of his or her AFC for any service in the Elected Officers' Class other than as a justice or judge, or for such service upgraded as provided in paragraphs 60S-2.013(1)(a) and (b), F.A.C.

(e) Each year of creditable service as a member of the Senior Management Service Class as provided in Rule 60S-1.0057, F.A.C., shall be worth: 2.00% of AFC for service on and after February 1, 1987 or the effective date of membership in the Senior Management Service Class, whichever is later, or for such service upgraded as provided in subsection 60S-2.013(2), F.A.C.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.091(1), 121.021, 121.052(10), 121.055 FS. History--New 10-20-72, Amended 12-31-74, 7-21-75, 7-1-79, 1-18-83, 5-11-83, 2-6-84, 4-17-85, Formerly 22B-2.15, Amended 1-12-87, 2-7-89, 9-5-90, 5-15-91, Formerly 22B-2.015, Amended 1-25-94, 4-5-95, 8-13-03,_____.

60S-2.016 Credit for Periods of Suspension Without Pay or Rescinded Dismissal.

(1) A member who has been or is suspended without compensation and is later reinstated and who is not retired, may receive retirement credit for the period of suspension without compensation provided:

(a) The creditable service claimed for the period of suspension does not exceed 2 years;

(b) The member returns to active employment and remains on the employer's payroll for at least one calendar month ~~30 calendar days~~; and

(c) The member pays the total required contributions in accordance with subsection 60S-3.014(1), F.A.C. A period of suspension without compensation will not be considered a break in service if the member elects to purchase credit for the entire period of suspension.

(2) No change.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.011(3)(e), (g) FS. History--New 1-16-77, Formerly 22B-2.16, 22B-2.016, Amended 2-24-99,_____.

60S-2.019 Credit for Unreported Service.

Retirement credit for service that was performed after December 1, 1970 under the Florida Retirement System and, due to error, was never reported to the Division as required in Rule 60S-3.011, F.A.C., may be claimed by a member of the Florida Retirement System provided:

(1) The unreported service was performed by an employee filling a regularly established position based on the definition in effect at the time of the service as follows:

(a) A regularly established position during the period from January 1, 1972 ~~December 1, 1970~~ through June 30, 1979 was any position authorized in an employer's approved budget for which salary funds were specifically appropriated to pay the salary of the position. Included within this definition were temporary, part-time, full-time, probationary, and seasonal employment positions. Not included within this definition was any position the salary for which was derived from a fund for Other Personal Services or from any account or sub-account

other than the regular salary account which was the source of funds for the salaries of those positions which were regularly established and reported to the Division.

(b) A regularly established position after June 30, 1979 through September 4, 1990 is any position that qualifies under the definition provided in subsection 60S-6.001(58)(46), F.A.C., except that a regularly established position in a local agency is one that is in existence for a period beyond four consecutive calendar months instead of six calendar months.

(c) A regularly established position after September 4, 1990 is any position that qualifies under the definition provided in subsection 60S-6.001(58), F.A.C.

(2) through (4) No change.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021, 121.081 FS. History--New 3-11-87, Formerly 22B-2.019, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarabeth Snuggs, Director, Division of Retirement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jack P. Miles, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: 06-18-2010, Vol. 36/24

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE NOS.:	RULE TITLES:
60S-3.002	Statements of Policy
60S-3.003	Retirement Contributions for Regular, Special Risk, Elected Officer, Special Risk Administrative Support and Senior Management Service Classes of the Pension and Investment Plans of the Florida Retirement System; Contributions for the Retiree Health Insurance Subsidy; and Contributions for the Deferred Retirement Option Program
60S-3.004	Retirement Contributions for Past Service Credit
60S-3.006	Retirement Contributions for Military Service Credit
60S-3.007	Retirement Contributions for Leave of Absence Credit
60S-3.010	Contributions for Social Security
60S-3.011	Payment of Contributions

60S-3.013 Retirement Contributions for Upgraded Previous Service Credit
 60S-3.015 Retirement Contributions for Retroactive Special Risk Class Service

PURPOSE AND EFFECT: The purpose and effect are to amend Division of Retirement rules to correspond with statutory changes up through the 2010 Legislative session and delete obsolete language.

SUMMARY: The amendments to this rule reflect the statutory revisions that: limit the renewal of membership in the Florida Retirement System (FRS); change contribution rates; allow metropolitan planning organizations, public charter schools and public charter technical career centers to participate in the FRS; and regulate the purchase of past service credit with the City of Jacksonville by certain employees of the Fourth Judicial Circuit. Other amendments to this rule: update compensation methodology used to calculate the contributions due for a military leave-of-absence, as necessary to comply with the Uniformed Services Employment and Reemployment Rights Act; clarify when a state university system employer may be subject to a special assessment based upon faculty salary increases; and the adopt by reference of one existing Division form previously adopted under Rule 60S-9.001, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No State of Estimated Regulatory Cost was prepared. The agency has determined that this rule shall not have an effect on small businesses as defined by Section 288.703, Florida Statutes, nor on small counties or small cities as defined by Section 120.52, Florida statutes.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimate regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

Not required because there are no adverse impacts on economic growth, business competitiveness or regulatory costs of more than \$1M in the aggregate within five years of implementation.

Any person who wishes to provide information regarding the statement of estimated costs or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 112.363(7), 121.031, 121.052(7) FS.

LAW IMPLEMENTED: 112.215(13), 112.363, 121.021, 121.031, 121.0515, 121.052, 121.055, 121.061, 121.071, 121.081, 121.091, 121.111, 121.113, 121.121(4), 121.122, 121.30, 121.70, 121.71, 121.72, 121.73, 121.74, 121.75, 121.76 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 4, 2011, 10:00 a.m., ET
 PLACE: Division of Retirement of the Department of Management Services, Director’s Conference Room, Suite 208, 1317 Winewood Blvd., Bldg 8, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706

THE FULL TEXT OF THE PROPOSED RULES IS:

60S-3.002 Statements of Policy.

(1) through (2) No change.

(3) All service credit for which the required contributions have been made and remain on deposit in the retirement trust fund shall be used in determining the benefits for which the member and his or her joint annuitant or surviving spouse are eligible.

(4) The required employee contributions for all service other than current service, including but not limited to prior service, past service, military service, leave of absence service, and out-of-state and in-state service, shall be paid by cash, personal check, cashier’s check, or money order. Direct rollovers from eligible retirement plans as described in Section 401(a)(31), Internal Revenue Code, will be accepted for the purchase of creditable service, however, such payment must be accompanied with a properly executed Form PRO-1 (Rev. 10/07), Florida Retirement System Pension Plan (401(a)Plan) Pretax Direct Rollover Form, herein adopted by reference. Such contributions shall be accompanied by a statement identifying the service for which payment is made; and shall be made in a lump sum for the total amount due or in annual payments of not less than \$100, except for the final payment if less than \$100, unless another method of payment is authorized in these rules. Interest will be added annually to any unpaid balance not received at the Division on or before June 30 as provided in Rule 60S-3.0035, F.A.C.

(5) No change.

(6) On and after July 1, 1972, all remittances (including member contributions, matching contributions and all interest thereon) made by a member for the purchase of current service, prior service, past service, military service, leave of absence service or out-of-state service credit shall be credited to the member’s account. A refund of a member’s retirement contributions at termination, as provided in subsection 60S-4.009(3)(5), F.A.C., shall include all such remittances made by the member that have been credited to his or her account. If requested, a member may receive at the time of his

or her retirement a refund of any contributions he or she made for the purchase of any additional service. A refund of member contributions cancels the member's right to any retirement service credit represented by the refunded contributions. A member is not entitled to a refund of contributions paid by an employer, except as provided in subparagraph 60S-3.004(1)(c)4., F.A.C.

(7) No change.

(8) In the case of a State University System faculty member who receives compensation from faculty practice funds or other sources that do not contribute to the FRS, and who receives a salary increase from sources that do contribute to the FRS that are greater than twice the appropriated average State University System faculty salary percentage increase for that year (where such increase is determined by the Division to have significant fiscal impact upon the FRS), an assessment payable to the FRS may be required of the State University.

Rulemaking Specific Authority 121.031 FS. Law Implemented 112.215(13), 121.031, 121.091(7), 121.71 FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 1-16-77, 8-26-81, 1-19-82, Formerly 22B-3.02, Amended 5-15-91, Formerly 22B-3.002, Amended 8-4-94, 8-13-03.

60S-3.003 Retirement Contributions for Regular, Special Risk, Elected Officer, Special Risk Administrative Support and Senior Management Service Classes of the Pension and Investment Plans of the Florida Retirement System; Contributions for the Retiree Health Insurance Subsidy; and Contributions for the Deferred Retirement Option Program.

The following tables state the required retirement and Retiree Health Insurance Subsidy contribution rates for members of the Florida Retirement System and their employers in terms of percentages of members' gross compensation as defined in Rule 60S-6.001, F.A.C.; however, effective July 1, 1990, retirement contributions shall not be made on fiscal year compensation in excess of the Internal Revenue Code (IRC) section 401(a)(17) maximum as provided in the definition of Compensation in Rule 60S-6.001, F.A.C. Contribution rates for both members and employers have changed since they were originally established and these changes are reflected in these tables. Employer contribution rates for the Florida Retirement System Investment Plan are effective on and after July 1, 2002. Changes in the contribution rates are always effective with the first salary paid on or after the beginning date of a change. Contributions are required to be made or deducted as may be appropriate, each pay period.

Effective July 1, 2002, contribution rates represent a blended rate actuarially determined to combine the Pension Plan and Investment Plan rates, by class, (including the Investment Plan disability rates), reduced by application of funds from the surplus in the Florida Retirement System Trust Fund.

(1) Retirement contributions for Regular Class ~~regular~~ members are as follows:

Dates of Rate Changes	Members	Employers
December 1, 1970 through December 31, 1974, for state agencies, state universities, community colleges and district school boards	4%	4%
December 1, 1970 through September 30, 1975, for county agencies, cities and <u>independent</u> special districts	4%	4%
January 1, 1975 through September 30, 1978, for state agencies and state universities	0%	9%
January 1, 1975 through July 31, 1978, for community colleges and district school boards	0%	9%
October 1, 1975 through September 30, 1978, for county agencies, cities and <u>independent</u> special districts	0%	9%
August 1, 1978 through September 30, 1981, for community colleges and district school boards	0%	9.1%
October 1, 1978 through September 30, 1981, for state agencies, state universities, county agencies, cities, and <u>independent</u> special districts	0%	9.1%
October 1, 1981 through September 30, 1984	0%	10.93%
October 1, 1984 through September 30, 1986	0%	12.24%
October 1, 1986 through December 31, 1988	0%	13.14%
January 1, 1989 through December 31, 1989	0%	13.90%
January 1, 1990 through December 31, 1990	0%	14.66%
January 1, 1991 through December 31, 1991	0%	15.72%
January 1, 1992 through December 31, 1992	0%	16.51%
January 1, 1993 through December 31, 1993	0%	17.27%
January 1, 1994 through December 31, 1994	0%	17.10%
January 1, 1995 through December 31, 1995	0%	16.91%
January 1, 1996 through June 30, 1996	0%	17.00%

July 1, 1996 through June 30, 1998	0%	16.77%
July 1, 1998 through June 30, 1999	0%	15.51%
July 1, 1999 through June 30, 2000	0%	9.21%
July 1, 2000 through June 30, 2001	0%	8.11%
July 1, 2001 through June 30, 2002	0%	6.09%
<u>Effective July 1, 2002 through June 30, 2003</u>	<u>0%</u>	<u>4.50%</u>
<u>July 1, 2003 through June 30, 2004</u>	<u>0%</u>	<u>6.18%</u>
<u>July 1, 2004 through June 30, 2005</u>	<u>0%</u>	<u>6.20%</u>
<u>July 1, 2005 through June 30, 2006</u>	<u>0%</u>	<u>6.67%</u>
<u>July 1, 2006 through June 30, 2010</u>	<u>0%</u>	<u>8.69%</u>
<u>Effective July 1, 2010</u>	<u>0%</u>	<u>9.63%</u>

(2) Retirement contributions for Special Risk Class special risk members are as follows:

Dates of Rate Changes	Members	Employers
December 1, 1970 through September 30, 1974	6%	6%
October 1, 1974 through December 31, 1974, for state agencies, state universities, community colleges, and district school boards	8%	8%
October 1, 1974 through September 30, 1975, for county agencies, cities and <u>independent</u> special districts	8%	8%
January 1, 1975 through September 30, 1978, for state agencies, state universities, community colleges, and district school boards	0%	13%
October 1, 1975 through September 30, 1978, for county agencies, cities, and <u>independent</u> special districts	0%	13%
October 1, 1978 through September 30, 1981	0%	13.95%
October 1, 1981 through September 30, 1984	0%	13.91%
October 1, 1984 through September 30, 1986	0%	14.67%
October 1, 1986 through December 31, 1988	0%	15.11%
January 1, 1989 through December 31, 1989	0%	17.50%
January 1, 1990 through December 31, 1990	0%	19.90%
January 1, 1991 through December 31, 1991	0%	25.52%
January 1, 1992 through December 31, 1992	0%	26.35%
January 1, 1993 through December 31, 1993	0%	27.14%
January 1, 1994 through December 31, 1994	0%	27.03%
January 1, 1995 through	0%	26.83%

December 31, 1995		
January 1, 1996 through June 30, 1996	0%	26.84%
July 1, 1996 through June 30, 1998	0%	26.44%
July 1, 1998 through June 30, 1999	0%	24.38%
July 1, 1999 through June 30, 2000	0%	20.22%
July 1, 2000 through June 30, 2001	0%	19.25%
July 1, 2001 through June 30, 2002	0%	17.23%
<u>Effective July 1, 2002 through June 30, 2003</u>	<u>0%</u>	<u>14.75%</u>
<u>July 1, 2003 through June 30, 2004</u>	<u>0%</u>	<u>17.32%</u>
<u>July 1, 2004 through June 30, 2005</u>	<u>0%</u>	<u>17.34%</u>
<u>July 1, 2005 through June 30, 2006</u>	<u>0%</u>	<u>17.37%</u>
<u>July 1, 2006 through June 30, 2010</u>	<u>0%</u>	<u>19.76%</u>
<u>Effective July 1, 2010</u>	<u>0%</u>	<u>22.11%</u>

(3) Retirement contributions for Special Risk Administrative Support Class members are as follows:

Dates of Rate Changes	Members	Employers
July 1, 1982 through September 30, 1984	0%	11.14%
October 1, 1984 through September 30, 1986	0%	13.09%
October 1, 1986 through December 31, 1988	0%	15.44%
January 1, 1989 through December 31, 1989	0%	14.76%
January 1, 1990 through December 31, 1990	0%	14.09%
January 1, 1991 through December 31, 1991	0%	20.16%
January 1, 1992 through December 31, 1992	0%	19.51%
January 1, 1993 through December 31, 1993	0%	18.83%
January 1, 1994 through December 31, 1994	0%	18.59%
January 1, 1995 through December 31, 1995	0%	17.81%
January 1, 1996 through June 30, 1996	0%	17.80%
July 1, 1996 through June 30, 1998	0%	17.20%
July 1, 1998 through June 30, 1999	0%	14.64%
July 1, 1999 through June 30, 2000	0%	11.53%
July 1, 2000 through June 30, 2001	0%	10.64%
July 1, 2001 through June 30, 2002	0%	8.62%
<u>Effective July 1, 2002 through June 30, 2003</u>	<u>0%</u>	<u>5.30%</u>
<u>July 1, 2003 through June 30, 2004</u>	<u>0%</u>	<u>8.71%</u>
<u>July 1, 2004 through June 30, 2005</u>	<u>0%</u>	<u>8.73%</u>
<u>July 1, 2005 through June 30, 2006</u>	<u>0%</u>	<u>8.76%</u>
<u>July 1, 2006 through June 30, 2010</u>	<u>0%</u>	<u>11.39%</u>
<u>Effective July 1, 2010</u>	<u>0%</u>	<u>12.10%</u>

(4) Retirement contributions for Elected Officers' Class members are as follows:

Dates of Rate Changes	Members	Employers
July 1, 1972 through September 30, 1977		
Legislators	8%	8%

All Other Members	8%	8%	December 31, 1993		
October 1, 1977 through			Justice, Judge	0%	29.91%
September 30, 1978			County Elected Officers	0%	25.84%
Legislators	8%	8%	All Other Members	0%	22.14%
All Other Members	4%	12%	January 1, 1994 through		
October 1, 1978 through			December 31, 1994		
September 30, 1979			Justice, Judge	0%	30.52%
Legislators	8%	10.57%	County Elected Officers	0%	26.07%
All Other Members	4%	16.78%	All Other Members	0%	22.65%
October 1, 1979 through			January 1, 1995 through		
September 30, 1981			December 31, 1995		
Legislators	8%	10.57%	Justice, Judge	0%	30.21%
Governor, Lt. Governor,	4%	16.78%	County Elected Officers	0%	27.48%
Cabinet Officer			All Other Members	0%	22.80%
All Other Members	0%	20.78%	January 1, 1996 through		
July 1, 1981 through June 30, 1984			June 30, 1996		
County Elected Officers	0%	19.30%	Justice, Judge	0%	30.15%
July 1, 1984 through			County Elected Officers	0%	27.54%
September 30, 1984			All Other Members	0%	22.90%
County Elected Officers	0%	20.25%	July 1, 1996 through June 30, 1998		
October 1, 1981 through			Justice, Judge	0%	29.55%
September 30, 1984			County Elected Officers	0%	27.33%
Legislators	0%	19.30%	All Other Members	0%	23.07%
Governor, Lt. Governor,	0%	21.03%	July 1, 1998 through June 30, 1999		
Cabinet Officer			Justice, Judge	0%	27.21%
State Attorney, Public	0%	20.95%	County Elected Officers	0%	26.99%
Defender			All Other Members	0%	22.33%
Justice or Judge	0%	22.55%	July 1, 1999 through June 30, 2000		
October 1, 1984 through			Justice, Judge	0%	20.48%
September 30, 1986			County Elected Officers	0%	17.05%
Justice or Judge	0%	21.79%	All Other Members	0%	14.31%
County Elected Officers	0%	16.97%	July 1, 2000 through June 30, 2001		
All Other Members	0%	10.98%	Justice, Judge	0%	19.38%
October 1, 1986 through			County Elected Officers	0%	15.95%
December 31, 1988			All Other Members	0%	13.21%
Justice or Judge	0%	20.94%	July 1, 2001 through June 30, 2002		
County Elected Officers	0%	17.19%	Justice, Judge	0%	17.35%
All Other Members	0%	11.50%	County Elected Officers	0%	13.93%
January 1, 1989 through			All Other Members	0%	11.19%
December 31, 1989			<u>Effective July 1, 2002 through</u>		
Justice, Judge	0%	22.58%	<u>June 30, 2003</u>		
County Elected Officers	0%	18.44%	Justice, Judge	0%	14.60%
All Other Members	0%	13.70%	County Elected Officers	0%	10.60%
January 1, 1990 through			All Other Members	0%	8.15%
December 31, 1990			<u>July 1, 2003 through June 30, 2004</u>		
Justice, Judge	0%	24.22%	<u>Justice, Judge</u>	0%	17.44%
County Elected Officers	0%	19.71%	<u>County Elected Officers</u>	0%	14.02%
All Other Members	0%	15.91%	<u>All Other Members</u>	0%	11.28%
January 1, 1991 through			<u>July 1, 2004 through June 30, 2005</u>		
December 31, 1991			<u>Justice, Judge</u>	0%	17.46%
Justice, Judge	0%	26.63%	<u>County Elected Officers</u>	0%	14.04%
County Elected Officers	0%	23.32%	<u>All Other Members</u>	0%	11.30%
All Other Members	0%	17.73%	<u>July 1, 2005 through June 30, 2006</u>		
January 1, 1992 through			<u>Justice, Judge</u>	0%	17.49%
December 31, 1992			<u>County Elected Officers</u>	0%	14.07%
Justice, Judge	0%	28.27%	<u>All Other Members</u>	0%	11.33%
County Elected Officers	0%	24.59%	<u>July 1, 2006 through June 30, 2010</u>		
All Other Members	0%	19.94%	<u>Justice, Judge</u>	0%	18.40%
January 1, 1993 through			<u>County Elected Officers</u>	0%	15.37%

All Other Members	0%	13.32%
Effective July 1, 2010		
Justice, Judge	0%	20.65%
County Elected Officers	0%	17.50%
All Other Members	0%	15.20%

(5) Retirement contributions for Senior Management Service Class members are as follows:

Dates of Rate Changes	Members	Employers
February 1, 1987 through December 31, 1988	0%	13.88%
January 1, 1989 through December 31, 1989	0%	14.95%
January 1, 1990 through December 31, 1990	0%	16.04%
January 1, 1991 through December 31, 1991	0%	18.39%
January 1, 1992 through December 31, 1992	0%	19.48%
January 1, 1993 through December 31, 1993	0%	20.55%
January 1, 1994 through December 31, 1994	0%	23.07%
January 1, 1995 through December 31, 1995	0%	23.88%
January 1, 1996 through June 30, 1996	0%	24.14%
July 1, 1996, through June 30, 1998	0%	21.58%
July 1, 1998 through June 30, 1999	0%	23.10%
July 1, 1999 through June 30, 2000	0%	11.19%
July 1, 2000 through June 30, 2001	0%	10.09%
July 1, 2001 through June 30, 2002	0%	8.07%
Effective July 1, 2002 through June 30, 2003	0%	4.80%
July 1, 2003 through June 30, 2004	0%	8.16%
July 1, 2004 through June 30, 2005	0%	8.18%
July 1, 2005 through June 30, 2006	0%	9.29%
July 1, 2006 through June 30, 2010	0%	11.96%
Effective July 1, 2010	0%	13.43%

(6) Retirement contributions for any retiree reemployed in a regularly established position by an employer, except for a retiree who is elected or appointed to a position eligible for the Elected Officers' Class, shall be as follows:

(a) Prior to July 1, 1991, the contributions for such retiree shall be equal to the unfunded actuarial accrued liability portion of the employer contribution required for Regular Class members.

Dates of Rate Changes	Members	Employers
July 1, 1985 through September 30, 1986	0%	5.71%
October 1, 1986 through December 31, 1988	0%	5.91%
January 1, 1989 through December 31, 1989	0%	3.37%
January 1, 1990 through December 31, 1990	0%	4.13%
January 1, 1991 through June 30, 1991	0%	4.81%

(b) Effective July 1, 1991 and through June 30, 2010, such retiree shall be enrolled as a renewed member and the contributions shall be equal to the total contributions required for members of the Regular Class or the Elected Officers' Class, as appropriate. Effective July 1, 1997 and through June 30, 2010, a retiree whose position is assigned to the Senior Management Service Class shall have renewed membership in the Senior Management Service Class and the contributions shall be equal to the total contributions required for Senior Management Service Class members.

(c) On and after July 1, 2010, any retiree of a state administered retirement system who is initially reemployed in a regularly established position shall not be eligible for renewed membership and the retirement contributions for such reemployed retirees shall be equal to the unfunded actuarial accrued liability portion of the employer contribution required for other active members of the FRS.

(7) In addition to the above retirement contributions, contributions for the following shall be made for all active members, and reemployed retired members initially reemployed prior to July 1, 2010, and for all Deferred Retirement Option Program participants of state-administered retirement systems. Reemployed retirees initially reemployed in a regularly established position on or after July 1, 2010, shall only be subject to the additional contributions as provided in paragraph (a):

(a) Retiree Health Insurance Subsidy:

Dates of Rate Change	Members	Employers
October 1, 1987 through December 31, 1988	0%	0.24%
January 1, 1989 through December 1, 1993	0%	0.48%
January 1, 1994, through December 1, 1994	0%	0.56%
January 1, 1995 through June 30, 1998	0%	0.66%
July 1, 1998 through June 30, 2001	0%	0.94%
Effective July 1, 2001	0%	1.11%

(b) For transfer to the State Board of Administration's Administrative Expense Trust Fund to offset the costs of implementing the Public Employee Optional Retirement Program:

July 1, 2000 through June 30, 2002	0%	0.10%
Effective July 1, 2002 through June 30, 2003	0%	0.15%
July 1, 2003 through June 30, 2004	0%	0.10%
July 1, 2004 through June 30, 2005	0%	0.08%
Effective July 1, 2005 through June 30, 2010	0%	0.05%
July 1, 2010 through June 30, 2014	0%	0.03%
Effective July 1, 2014	0%	0.04%

(8) Retirement contributions for all participants in the Deferred Retirement Option Program are as follows:

July 1, 1998 through June 30, 2002	0%	11.56%
Effective July 1, 2002 through June 30, 2005	0%	8.00%
July 1, 2005 through June 30, 2006	0%	8.22%
July 1, 2006 through June 30, 2010	0%	9.80%
Effective July 1, 2010	0%	11.14%

Rulemaking Specific Authority 112.363(7), 121.031 FS. Law Implemented 112.363, 121.052, 121.055, 121.071, 121.091, 121.122, 121.30, 121.70, 121.71, 121.72 FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 7-1-79, 8-26-81, 10-12-82, 11-6-84, 9-24-85, Formerly 22B-3.03, Amended 1-12-87, 5-18-88, 2-7-89, 5-15-91, Formerly 22B-3.003, Amended 8-4-94, 3-12-96, 12-12-96, 2-24-99, 8-13-03, _____.

60S-3.004 Retirement Contributions for Past Service Credit.

The cost of claiming past service credit varies with the kind of past service credit claimed. Each of the contribution formulas below corresponds to a Rule of 60S-2.003, F.A.C., which authorizes retirement credit for a particular kind of past service credit.

(1) Past service claimed in accordance with subsection 60S-2.003(1), F.A.C., shall require a contribution as follows:

(a) through (b) No change.

(c) The payment of contributions for past service credit under this subsection shall be subject to the following additional requirements:

1. A city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center may elect to make the required contributions for past service for its members; however, it must provide past service for all members on an equal basis.

2. A member may make the required contributions for any past service not provided by his or her employer.

3. The cost of past service purchased by an employing agency for its employees may be amortized over such period of time as provided in the agreement and as calculated in accordance with paragraph 60S-1.007(5)(f), F.A.C., not to exceed 15 years.

4. The retirement account of each member for whom past service is being provided by his or her employer shall be credited with all past service his or her employer agrees to purchase as soon as the agreement between the employer and the Division is executed. Each member's account shall also be posted with the total contribution his or her employer agrees to make in his or her behalf for past service earned prior to October 1, 1975, except those contributions representing the employer's matching share and the compound interest calculation on the total contribution. However, no portion of any contributions paid by an employer for past service credit earned on and after October 1, 1975, shall be posted to a member's account. A refund of contributions payable after an employer has made a written agreement to purchase past service for employees of the covered group shall include contributions for past service which are posted to a member's account. Contributions for past service earned on and after October 1, 1975, are not refundable.

(d) The required contributions for additional Special Risk Class special risk past service credit purchased in accordance with paragraph 60S-2.003(1)(g), F.A.C., shall be equal to the

difference in the contributions paid under (a) through (c) above and the contributions required at the Special Risk Class special risk contribution rate in effect at the time the member requests to purchase the service and the account is audited to determine the additional costs, plus interest compounded annually as provided in (b).

(2) through (5) No change.

(6) Past service claimed in accordance with subsection 60S-2.006(6), F.A.C., for service with the City of Jacksonville prior to July 1, 2004, that may be claimed for retirement credit by employees of the Fourth Judicial Circuit who were in an employee-employer relationship with the City of Jacksonville on June 30, 2004, and who became employees of the State Courts System on July 1, 2004, as a result of the implementation of Revision 7 to Article V of the State Constitution shall require contributions equal to the combined employee and employer contributions required for the class of membership under which the service was rendered during the period of such employment, plus interest from the fiscal year of the service claimed as provided in paragraphs 60S-3.004(1)(a) and (b)5., F.A.C. The contributions and interest due may be paid by either the member or the prior employer on behalf of the member.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.081(1) FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 1-16-77, 1-19-82, 11-6-84, 4-17-85, Formerly 22B-3.04, Amended 2-7-89, 5-15-91, Formerly 22B-3.004, Amended _____.

60S-3.006 Retirement Contributions for Military Service Credit.

(1) For Military Leave of Absence – The required contributions for active duty military leaves of absence in accordance with subsection 60S-2.005(1), F.A.C., shall equal: (Contribution rate × months claimed × compensation) + interest.

Where:

The “contribution rate” is the total employee and employer contribution rates in effect during the time of the military service for the class of membership to which the member belonged immediately prior to the leave of absence; the employer contributions shall be paid by the employer if the member was released from military service on or after December 3, 1974, or by the member if he or she was released from military service prior to December 3, 1974, and, if applicable, any employee contributions shall be paid by the employee.

The “months claimed” is the total number of months of military service credit claimed;

The “compensation” is the member's monthly rate of compensation that would have been received if working during in effect immediately prior to the leave of absence; and

The “interest” shall be as provided in Rule 60S-3.0035, F.A.C., beginning with the fiscal year of the military service claimed.

(2) For Wartime Military Service – A member who wishes to claim retirement credit for wartime military service in accordance with subsection 60S-2.005(2), F.A.C., may make the required contributions for such service only after he or she has satisfied the service requirements for vesting. Such military service shall be creditable as Regular Class ~~regular~~ service only.

(a) The required contributions for such wartime military service, except for persons who retired prior to July 1, 1985 as provided in paragraph 60S-3.006(2)(b), F.A.C., shall equal:
 Contribution rate × years claimed × compensation + interest.

Where:

The contribution rate shall equal 4%;

The “years claimed” are the total number of years and portion of years claimed as provided in paragraph 60S-2.005(2)(j), F.A.C.;

The “compensation” is the actual compensation received during the period commencing July 1, 1945 and ending on the date the member completes one full year of creditable service subsequent to July 1, 1945; and

The interest shall be as provided in Rule 60S-3.0035, F.A.C., beginning with the first fiscal year in which the member earned creditable service subsequent to July 1, 1945.

(b) No change.

(3) No change.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021, 121.111 FS. History–New 1-1-72, Amended 12-31-74, 8-26-81, 2-6-84, 4-17-85, Formerly 22B-3.06, Amended 2-4-86, 2-7-89, 11-14-91, Formerly 22B-3.006, Amended 3-18-93, 8-13-03, _____.

60S-3.007 Retirement Contributions for Leave of Absence Credit.

The required contributions for any member who is eligible to claim creditable service for leaves of absence in accordance with Rule 60S-2.006, F.A.C., shall be determined as follows:

(1) Retirement contributions for leaves of absence credit are 8 percent for leaves of absence prior to January 1, 1975, 9 percent for leaves of absence from January 1, 1975 until June 30, 1980, and for leaves of absence after July 1, 1980 all leaves must be purchased at the combined rate of employee and employer contributions required for the class of membership under which the leave was granted. However, service credit purchased prior to July 1, 1980 for leave of absence in a class of membership other than the Regular Class of ~~regular~~ membership ~~class~~ may be purchased by paying the appropriate additional contributions. The member shall receive creditable service for such leave in the membership class from which it was granted. The appropriate percentage is then multiplied by the number of months of the leave of absence multiplied by the rate of the member’s monthly compensation in effect

immediately prior to the commencement of the leave of absence, plus interest from the fiscal year of the leave of absence as provided in Rule 60S-3.0035, F.A.C.

(2) The required contributions to claim full retirement credit as allowed in subsection 60S-2.006(3), F.A.C., for a leave of absence during which the member received partial salary (which was paid from a salary fund and on which retirement contributions were paid) shall be determined as follows:

Contributions shall be charged for any portion of the leave of absence on which retirement contributions have not already been paid. The rate of contributions shall be 8 percent for leaves of absence prior to January 1, 1975, 9 percent for leaves of absence from January 1, 1975 until June 30, 1980 and for leaves of absence after July 1, 1980 all leaves must be purchased at the combined rate of employee and employer contributions required for the class of membership under which the leave was granted. However, service credit purchased prior to July 1, 1980 for a leave of absence in a class of membership other than the Regular Class of ~~regular~~ membership ~~class~~, may be purchased by paying the appropriate additional contributions. The member shall receive creditable service for such leave in the membership class from which it was granted. The appropriate percentage is then multiplied by the number of months of the leave of absence, multiplied by the rate of monthly compensation in effect immediately prior to the commencement of the leave of absence. The amount of contributions already paid shall be subtracted from the total amount due and interest on the remaining amount due shall be charged from the fiscal year of the leave of absence as provided in Rule 60S-3.0035, F.A.C.

(3) No change.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.121(4) FS. History–New 1-1-72, Amended 10-20-72, 12-31-74, 7-1-79, 8-26-81, Formerly 22B-3.07, Amended 2-7-89, Formerly 22B-3.007, Amended _____.

60S-3.010 Contributions for Social Security.

(1) Social Security contributions shall be required of each member of the Florida Retirement System and each reemployed retired member who renews membership as provided in Rules 60S-1.0045 and subsection 1.0055(4), F.A.C., as well as for any reemployed retiree who is initially reemployed in a regularly established position on or after July 1, 2010. Contributions shall be withheld from the member’s salary each pay period in the amount required for Social Security coverage as provided by the Federal Social Security Act.

(2) Each employer shall contribute an amount equal to the total of his or her employees’ contributions for Social Security each pay period.

(3) No change.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.071 FS. History--New 1-1-72, Repromulgated 12-31-74, Amended 10-12-82, 9-24-85, Formerly 22B-3.10, Amended 5-15-91, Formerly 22B-3.010, Amended 3-18-93,_____.

60S-3.011 Payment of Contributions.

(1) All retirement contributions for current services rendered by covered employees of all state-administered retirement plans shall be paid to the Division of Retirement. The required contribution rate shall be the rate in effect at the time the member is paid, as determined by his or her class of membership. Retirement contributions and accompanying payroll data for each payroll period are due and payable each month no later than the 5th working day of the month following the month in which covered wages are paid.

(2) through (4) No change.

(5) If the agency fails to pay the total amount due within 120 calendar days from the date of the Division's invoice, the following action shall be taken:

(a) In the case of a state agency, the Administrator shall notify the Governor and certify the amounts due to the Director of Planning and Budgeting, Office of the Governor. If arrangements cannot be made to pay the amount due, then the amount shall be appropriated from the General Revenue Fund of the state as prescribed in Section 121.061, F.S.

(b) In the case of a county, city, independent ~~or~~ special district, metropolitan planning organization, public charter school or public charter technical career center the Administrator shall request the Department of Banking and Finance or the Department of Revenue to withhold the amount owed to the Florida Retirement System Trust Fund or the Social Security Contribution Trust Fund from any State funds allocated to the county, city, independent ~~or~~ special district, metropolitan planning organization, public charter school or public charter technical career center. If existing funds do not equal the amount owed to the trust funds, the Administrator shall certify to the local tax collector the amount owed, and the tax collector shall deduct the amount so certified from any taxes collected for the employer and pay the amount to the proper trust fund.

(6) through (9) No change.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.052(7), 121.055(3), 121.061, 121.071(3), (5), 121.091(7), (9), 121.113, 121.71, 121.72, 121.73, 121.74, 121.75, 121.76 FS. History--New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 7-1-79, 1-19-82, 10-12-82, 11-6-84, 9-24-85, Formerly 22B-3.11, Amended 5-15-91, Formerly 22B-3.011, Amended 12-30-99, 8-13-03,_____.

60S-3.013 Retirement Contributions for Upgraded Previous Service Credit.

(1) through (3) No change.

(4) The required contributions for a member of the Special Risk Class to claim retirement credit in such class for previous service in fire prevention or firefighter training within the

purview of the Class as specified in subsection 60S-2.013(6)(4), F.A.C., shall be equal to the difference between the total employee and employer contribution rate actually paid and the total contribution rate required at the time the service was rendered based on the gross salary received, plus interest as provided in Rule 60S-3.0035, F.A.C., from the first fiscal year of the service being claimed. The required contributions may be paid by the member's employer on behalf of the member.

(5) The required contributions for a member of the Special Risk Class to claim retirement credit in such class for previous service as an emergency medical technician or paramedic within the purview of the Class as specified in subsection 60S-2.013(7), F.A.C., shall be equal to the difference between the total employee and employer contribution rate actually paid and the total contribution rate required at the time the service was rendered based on the gross salary received, plus interest as provided in Rule 60S-3.0035, F.A.C., from the first fiscal year of the service being claimed. The required contributions may be paid by the member's employer on behalf of the member.

(6) The required contributions for a member of the Special Risk Class to claim retirement credit in such class for previous service in a forensic discipline within the purview of the Class as specified in subsection 60S-2.013(8), F.A.C., shall be an amount representing the actuarial accrued liability for the difference in the accrual value during the affected period of service as provided in Section 121.052(9)(c), F.S. Local government employers may purchase the upgraded service on behalf of the member if that member has been employed by that employer for at least three years.

Rulemaking Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.0515, 121.052, 121.055 FS. History--New 10-20-72, Repromulgated 12-31-74, Amended 1-16-77, 11-6-84, Formerly 22B-3.13, Amended 2-4-86, 3-11-87, 9-5-90, 11-14-91, Formerly 22B-3.013, Amended 8-4-94, 4-5-95, 8-13-03,_____.

60S-3.015 Retirement Contributions for Retroactive Special Risk Class Service.

The required contributions for claiming Special Risk Class ~~special risk~~ service retroactively by a member removed from the Special Risk Class effective October, 1978 as provided in subsection 60S-1.005(6), F.A.C., shall be equal to the difference in the contributions that were paid during the period and the contributions required for Special Risk Class ~~special risk~~ members during this period, plus 6.5% interest thereon compounded each June 30 from date of service until date of payment.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.0515 FS. History--New 11-6-84, Formerly 22B-3.15, 22B-3.015, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Sarabeth Snuggs, Director, Division of Retirement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John P. Miles, Secretary, Department of Management Services
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010, Vol. 36/24

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE NOS.:	RULE TITLES:
60S-4.001	Scope and Purpose
60S-4.002	Statements of Policy
60S-4.003	Retirement Eligibility
60S-4.0035	Retirement Application and Effective Retirement Date
60S-4.004	Benefits Payable Upon Normal Retirement
60S-4.005	Benefits Payable Upon Early Retirement
60S-4.006	Benefits Based on Dual Retirement Ages
60S-4.007	Benefits Payable for Disability Retirement
60S-4.008	Benefits Payable Upon Death
60S-4.009	Benefits Payable After Termination
60S-4.010	Retirement Benefit Payment Options
60S-4.011	Designation of Beneficiary
60S-4.012	Employment After Retirement
60S-4.015	Deductions from Monthly Benefits
60S-4.021	Forfeiture of Benefits

PURPOSE AND EFFECT: The purpose and effect are to amend Division of Retirement rules to correspond with statutory changes up through the 2010 Legislative session and delete obsolete language.

SUMMARY: These amendments reflect the statutory changes occurring in Chapter 2009-209, Laws of Florida, regarding: the requirements for “termination of employment”; and limitations on reemployment and renewed membership in the Florida Retirement System; and incorporate by reference one new Division form, one State Board of Administration form and 37 Division Forms previously adopted by reference in Rule 60S-9.001, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No State of Estimated Regulatory Cost was prepared. The agency has determined that this rule shall not have an effect on small businesses as defined in Section 288.703, Florida Statutes, nor on small counties or small cities as defined in Section 120.52, Florida statutes. Any person who wishes to provide information regarding the statement of estimated costs or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 121.031, 121.052, 121.4501(8)(a) FS.

LAW IMPLEMENTED: 61.1301, 112.18, 112.181, 112.362, 112.65, 121.021, 121.031, 121.046(4), 121.051(2), 121.052, 121.053, 121.055, 121.091, 121.23, 121.450 (16), 121.591(2), 222.21, 238.181 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

DATE AND TIME: November 4, 2011, 10:00 a.m., ET

PLACE: Division of Retirement of the Department of Management Services, Director’s Conference Room, Suite 208, 1317 Winewood Blvd., Bldg 8, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706

THE FULL TEXT OF THE PROPOSED RULES IS:

60S-4.001 Scope and Purpose.

This chapter sets forth the rules and regulations providing for benefits for members of the Florida Retirement System Pension Plan administered by the Division of Retirement of the Department of Management Services unless otherwise specifically stated.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.031 FS. History—New 1-1-72, Amended 10-20-74, Repromulgated 12-31-74, Formerly 22B-4.01, Amended 9-8-92, Formerly 22B-4.001_____.

60S-4.002 Statements of Policy.

(1) through (3) No change.

(4) After a retirement benefit payment has been cashed or deposited or after a DROP payment is credited:

(a) No additional service, which remained unclaimed at retirement, may be claimed or purchased;

(b) The selection of an option may not be changed; and

(c) The type of retirement, i.e. normal, early, or disability, may not be changed, except for the following:

1. When a member recovers from disability and subsequently applies for normal or early retirement as provided in subsections 60S-4.007(8)(7) and (9)(8), F.A.C.,

2. When a member begins receiving normal or early service retirement benefits while appealing a denial of his or her application for disability retirement and such disability application is subsequently approved as provided in paragraph 60S-4.007(3)(g), F.A.C., or

3. When an elected officer requests, prior to July 1, 1990, that his or her benefit be suspended and recalculated as provided in paragraph 60S-4.012(6)(b), F.A.C.

(5) Any person who retires under the noncontributory retirement plan for state officers and employees established by Section 112.05, F.S., shall forfeit all rights and benefits under the Florida Retirement System, except for a refund of his or her accumulated contributions.

(6) No change.

(7) A person who is retired under the Florida Retirement System may not have his or her monthly retirement benefit reduced for the purpose of preserving his or her eligibility for pensions or benefits under some other state or federal program. A person may refuse application of the minimum benefit as provided in Rule 60S-4.0025, F.A.C., or the Retiree Health Insurance Subsidy as provided in Rule 60S-4.020, F.A.C.

(8) Immediately upon reducing, suspending or terminating a benefit or, if possible, prior to taking such action, the Division may give notice in writing to each person known by the Division to be substantially affected by the action. The notice shall:

(a) State the nature of the action and the reason for it.

(b) State that a person who does not agree with the action may request a hearing on the decision by filing, within 21 days of receipt of the notice, a petition prepared in accordance with Rule ~~28-106.201~~ ~~60S-10.003~~, F.A.C.

(c) State that a person who does not file a petition within 21 days of receipt of the notice shall have waived his or her right to request a hearing on the decision.

(d) Include a reference to this rule and a copy of Rule ~~28-106.201~~ ~~60S-10.003~~, F.A.C.

(9) To ensure the removal of names of deceased retirees or beneficiaries from the benefit payroll, the Division shall, at least once each year, conduct an audit of the benefit payroll to determine that the persons to whom benefits are being paid are still living. The benefit payment recipient may be sent Form SAPS (Rev. 10/02), Florida Retirement System Statement Attesting to Payee Status, or Form AAPS (Rev. 08/00), Florida Retirement System Pension Plan Affidavit Attesting to Payee Status, both of which are herein incorporated by reference, and requires the still living benefit payee recipient to sign and return the form to the Division. The Division shall suspend the benefits payable to any retiree or beneficiary not confirmed to be living.

(10) It is the responsibility of a payee to notify the Division of any change in his or her address. The Division may suspend benefit payments to a payee if correspondence sent to the payee's mailing address is returned due to incorrect address. Benefit payments will be resumed upon notification to the Division of the payee's new address.

(11) No change.

(12) A member or payee may designate an attorney in fact to handle his or her affairs by executing a power of attorney. To establish a power of attorney with the Division, a copy of the original power of attorney must be submitted with the member's or payee's signature properly witnessed, and must designate the authorized attorney in fact to act on his or her behalf. The document must clearly state the specified acts to be performed on behalf of the member or payee. A power of attorney may be revoked by either written notification from the member or payee, death of the member or payee, or acts deemed to be inconsistent with authority. Once a power of attorney has been filed with the Division, the Division must be notified if the power of attorney is ever revoked.

(13) No change.

(14) Any state warrant issued by the Chief Financial Officer ~~Comptroller~~ for the payment of retirement benefits from the Florida Retirement System Trust Fund, or any other pension trust fund administered by the Division, that is not presented for payment within 1 year after the last day of the month in which it was originally issued, shall be cancelled by the Chief Financial Officer ~~Comptroller~~ and the amount of the warrant credited to the Florida Retirement System Trust Fund or other pension trust fund administered by the Division, as appropriate. The Division may issue a replacement warrant when it deems appropriate.

Rulemaking Specific Authority 121.052(7) FS. Law Implemented 121.052, 121.055 FS. History--New 1-1-72, Amended 10-20-72, Repromulgated 12-20-74, Amended 12-31-74, 1-16-77, 7-1-79, 12-22-80, 8-26-81, 2-6-84, 11-6-84, 4-17-85, Formerly 22-2.02, Amended 2-4-86, 3-11-87, 9-5-90, Formerly 22-B-2.002, Amended 2-24-99, 8-13-03, _____.

60S-4.003 Retirement Eligibility.

(1) An FRS Pension Plan member shall be eligible to receive a retirement benefit based on age and service provided:

(a) He or she terminates all employment with all employers participating in the Florida Retirement System as provided in Rule 60S-6.001, F.A.C., (termination) or subsection (3) of this Rule, except as provided in subsection 60S-4.012(8), F.A.C., and

(b) He or she satisfies vesting requirements by completing creditable service as follows:

1. Six ~~6~~ years of creditable service, subject to the following:

a. A member who is employed in a covered position on July 1, 2001 or a new member who begins employment in a covered position on or after July 1, 2001 shall satisfy the vesting requirement for retirement eligibility upon completion of a total of 6 years of creditable service in any membership class;

b. A member with service before July 1, 2001 who is not employed on July 1, 2001 must be employed in a regularly established position for one work year after that date to become eligible for 6-year vesting as provided in sub-subparagraph a.

However, when such member completes the vesting requirements in sub-subparagraphs 60S-4.003(1)(b)2.a.-c., F.A.C., prior to completing the one work year, such member shall be vested.

2. No change.

(c) He or she attains one of the following:

1. Normal retirement age with benefits payable according to Rule 60S-4.004, F.A.C., as follows:

a. He or she has completed 30 years of creditable service, regardless of age; (all creditable service, including military service is applicable); or

b. All of his or her creditable service is in the Regular Class, the Elected Officers' Class, and/or the Senior Management Service Class, and he or she has reached age 62; or

c. All of his or her creditable service is Special Risk Class service or a combination of Special Risk Class service and Special Risk Administrative Support Class service, State and County Officers and Employees' Retirement System high-hazard service, Highway Patrol Pension System service, or service as provided in Rule 60S-2.0041, F.A.C., and:

(I) He or she has satisfied vesting requirements in paragraph (b) but has completed less than 25 years of such creditable service and has reached age 55; or

(II) He or she has completed 25 years of such creditable service that includes credit for military service, and has reached age 52; or

(III) He or she has completed 25 years of such creditable service, regardless of age.

2. Early retirement age with benefits payable in accordance with Rule 60S-4.005, F.A.C., as follows:

a. All of his or her creditable service is in the Regular Class, the Elected Officers' Class, and/or the Senior Management Service Class and he or she has neither reached age 62, nor completed 30 years of service; or

b. All of his or her creditable service is in the Special Risk Class or in a combination of the Special Risk Class and the Special Risk Administrative Support Class, the State and County Officers and Employees' Retirement System High-Hazard service, the Highway Patrol Pension System, or service as provided in Rule 60S-2.0041, F.A.C., and:

(I) He or she has satisfied vesting requirements in paragraph (b) but has completed less than 25 years of such creditable service and has not reached age 55, or

(II) He or she has completed 25 years of such creditable service that includes credit for military service, but has not reached age 52.

3. Dual retirement ages with benefits payable in accordance with Rule 60S-4.006, F.A.C., when he or she has creditable service as a Regular Class, Elected Officers' Class

or Senior Management Service Class member; and as a Special Risk Class member, or a Special Risk Class member with high-hazard or Highway Patrol service.

(2) No change.

(3) Any member who meets the eligibility requirements under subsection 60S-4.003(1), F.A.C., and who is a participant in the State University System Optional Retirement Program, the Community College Optional Retirement Program or the Senior Management Service Optional Annuity Program shall not be eligible to receive a Florida Retirement System retirement benefit until he or she terminates the employment which qualifies him or her for participation in the State University System Optional Retirement Program, the Community College Optional Retirement Program or the Senior Management Service Optional Annuity Program.

(4) A member of the State and County Officers' and Employees' Retirement System shall be eligible to receive a retirement benefit in accordance with Chapter 122 of the Florida Statutes.

(5) A member of the Teachers' Retirement System shall be eligible to receive a retirement benefit in accordance with Chapter 238 of the Florida Statutes.

Rulemaking Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.021, 121.051(2), 121.052(3), 121.055 FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 7-1-79, 9-9-82, 2-6-84, Formerly 22B-4.03, Amended 2-4-86, 1-12-87, 9-5-90, 11-14-91, Formerly 22B-4.003, Amended 3-18-93, 1-25-94, 8-13-03, _____.

60S-4.0035 Retirement Application and Effective Retirement Date.

(1) It shall be the responsibility of the FRS Pension Plan member, the State and County Officers' and Employees' Retirement System member, the Teachers' Retirement System member or the beneficiary of any such member in the event of the member's death, to make proper application to the Division for retirement benefits. A member may apply for retirement benefits within 6 months prior to his or her date of termination of employment. If a member terminates his or her employment and elects to defer his or her retirement to some future date, he or she may apply for deferred benefits up to 6 months prior to the date he or she desires his or her retirement to become effective. Application for retirement benefits shall be made as follows:

(a) Application for normal or early retirement for FRS Pension Plan members as provided in Rules 60S-4.004 and 60S-4.005, F.A.C., respectively shall be made on Form FR-11 (Rev. 11/10), Florida Retirement System Pension Plan Application for Service Retirement, herein adopted by reference; if by the beneficiary of a deceased member as provided in Rule 60S-4.008, F.A.C.;

(b) Application for normal or early retirement for members of the State and County Officers' and Employees' Retirement System as provided in Rules 60S-4.004 and

60S-4.005, F.A.C., respectively, shall be filed with the Division on Form SR-11 (Rev. 09/07), State and County Officers' and Employees' Retirement System Application for Service Retirement, herein incorporated by reference;

(c) Application for normal or early retirement for members of the Teachers' Retirement System as provided in Rules 60S-4.004 and 60S-4.005, F.A.C., respectively, shall be filed with the Division on Form TR-11 (Rev. 09/07), Teachers' Retirement System Application for Service Retirement, herein incorporated by reference;

(d) Application for retirement benefits by a beneficiary of a deceased FRS Pension Plan member, State and County Officers' and Employees' Retirement System member or a Teachers' Retirement System member as provided in Rule 60S-4.008, F.A.C., shall be filed with the Division on Form FST-11b (Rev 12/02), Florida Retirement System Pension Plan Application of Beneficiary for Monthly Retirement Benefits, herein incorporated by reference. Application for retirement benefits by the contingent beneficiary of a deceased FRS Pension Plan member who selected an Option 2 benefit as provided in Rule 60S-4.010, F.A.C., wherein the primary beneficiary receiving the Option 2 benefit dies within the 10-year period following the member's effective date of retirement, shall be filed with the Division on Form FST-11so2 (Rev. 12/02), Florida Retirement System Pension Plan Application for Survivor Benefits, herein adopted by reference;

(e) Application for disability retirement as provided in Rule 60S-4.007, F.A.C., shall be made as follows: ~~Such forms are adopted in Rule 60S-9.001, F.A.C.~~

1. FRS Pension Plan members shall file such application for disability retirement with the Division on Form FR-13 (Rev. 07/06), Florida Retirement System Pension Plan Application for Disability Retirement, herein adopted by reference.

2. FRS Investment Plan members shall file such application for disability retirement with the Division on Form PR-13 (Rev. 07/06), Florida Retirement System Investment Plan Application for Disability Retirement, herein adopted by reference.

3. State and County Officers' and Employees' Retirement System members shall file such application for disability retirement with the Division on Form SR-13 (Rev. 09/71), State and County Officers' and Employees' Retirement System Application for Disability Retirement, herein adopted by reference.

4. Teachers' Retirement System members shall file such application for disability retirement with the Division on Form TR-13 (Rev. 10/86), Teachers' Retirement System Employees' Retirement System of Florida Application for Disability Retirement, herein adopted by reference.

(2) No change.

(3) The Division shall establish the member's effective retirement date as follows:

(a) For a FRS Pension Plan member who makes application for a normal or early retirement benefit as provided in Rule 60S-4.004 or 60S-4.005, F.A.C., or for a State and County Officers' and Employees' Retirement System member who makes application for a normal or early retirement benefit as provided in Section 122.08, F.S., or for a Teachers' Retirement System member who makes application for a normal or early retirement benefit as provided in Section 238.07, F.S., the effective retirement date shall be the first day of the month following the month in which the member's termination occurs, provided the Division receives such member's application for retirement no later than 30 calendar days after such termination. If a member fails to apply for retirement within 30 calendar days after termination or if the member chooses to defer his or her retirement to a later date, the effective retirement date shall be the first day of the month following the month in which the Division receives the member's application, or the first day of a later month specified by the member. However, for a member who retires under the provisions of the Deferred Retirement Option Program as provided in Chapter 60S-11, F.A.C., the member's effective date of retirement shall be the DROP begin date as defined in subsection 60S-11.001(5)(3), F.A.C.

(b) For a member who makes application for and is approved for disability retirement in accordance with Rule 60S-4.007, F.A.C., and for whom the Division has received from the employer the required documentation of the member's termination of employment, the effective retirement date shall be:

1. The first day of the month following the Division's receipt of the Disability Retirement application as provided in subsection (1), ~~Form FR-13~~ when receipt is before the documented termination date, and provided no salary or workers' compensation payments are reported and no creditable service is granted past the month in which the Disability Retirement application ~~Form FR-13~~ is received; or

2. The first day of the month following the documented termination date, provided the Division's receipt of the Disability Retirement application ~~Form FR-13~~ is within 30 calendar days after such date; or

3. The first day of the month following the Division's receipt of the Disability Retirement application ~~Form FR-13~~ when receipt is more than 30 calendar days after the documented termination date; or

4. The first day of the month following the last month for which salary is reported or creditable service is granted, provided the Division receives the Disability Retirement application ~~Form FR-13~~ before such day and the documented termination date occurs after such day.

5. For a member who is receiving Workers' Compensation payments, the effective retirement date shall not be prior to the date the member reaches Maximum Medical Improvement (MMI), except when the member terminates employment prior to reaching MMI.

(c) For a member who dies prior to an effective retirement date established pursuant to paragraph (a) or (b), the effective retirement date shall be the first day of the month following the month in which the member died, provided the joint annuitant makes timely application for benefits; or, for a deferred monthly benefit, the first day of the month following the month in which the Division receives the joint annuitant's application for benefits, or the first day of a later month specified by the joint annuitant.

(4) When a member's application for retirement benefits is received, the Division will:

(a) Acknowledge the receipt of the member's application and advise him or her of any required information or documents that have not yet been received. Such information may include but is not limited to birthdate verification, beneficiary designation, option selection as required by Rule 60S-4.010, F.A.C., spousal acknowledgment by an FRS Pension member applying for retirement benefits or an Investment Plan participant applying for Disability retirement if option 1 or 2 is selected as required by subsection 60S-4.010(9), F.A.C., any payments due the member's account for purchase of additional service credit or a written statement from the member that the member does not wish to claim such service credit, and final certification of earnings.

(b) Establish the effective retirement date as provided in paragraph 60S-4.0035(3)(a), F.A.C., for normal or early retirement, or as provided in paragraph 60S-4.0035(3)(b), F.A.C., for disability retirement.

(c) No changes.

(d) If all the required information or documents have not been received by the Division after 3 follow-up notices have been sent to the member, a certified letter will be sent advising the member he or she has 21 days to provide such information or documents without loss of benefits.

(e) If all the required information or documents have not been received by the Division after the 21 days specified in the certified letter, a final agency action letter will be sent to the member advising the member that his or her application is canceled and he or she must reapply to receive benefits, with a new effective retirement date established upon application.

Rulemaking Specific Authority 121.031, 121.4501(8)(a) FS. Law Implemented 112.65, 121.021, 121.091, 121.4501(16), 121.591(2) FS. History—New 11-14-91, Formerly 22B-4.0035, Amended 8-4-94, 12-12-96, 8-13-03.

60S-4.004 Benefits Payable Upon Normal Retirement.

(1) The maximum normal monthly retirement benefit for a member who retires with creditable service only under the Florida Retirement System shall be calculated by multiplying

the years of service times the percentage value per year of service times the average final compensation, and dividing the product by 12, as follows:

(a) For a member who has creditable service only as a Regular Class ~~regular~~ member:

Normal Monthly Benefit =

$$\frac{A \times B \times AFC}{12}$$

Where:

A is –

1.60% at age 62

1.63% at age 63

1.65% at age 64

1.68% at age 65

or over, not to exceed 1.68% Or

1.60% with 30 years of creditable service

1.63% with 31 years of creditable service

1.65% with 32 years of creditable service

1.68% with 33 years of creditable service or more, not to exceed 1.68%

B is – The sum of all complete years and fractions of a year of creditable Regular Class ~~regular~~ service under the Florida Retirement System.

AFC (Average Final Compensation) is – The average annual compensation of the 5 highest years of compensation of creditable service prior to retirement, termination or death.

Average Final Compensation shall be figured in the following manner:

1. Identify the total salary paid for each July 1 through June 30 fiscal year.

2. Rank the fiscal years of salary in order from the highest annual salary to the lowest annual salary. In order to determine the annual salary for ranking purposes only, during a year for which a member receives less than a full year of creditable service, divide the actual salary received by the percentage of a year of creditable service earned for that year.

3. Total the actual salary received for the highest 5 years. If the highest 5 fiscal years do not constitute 5 complete years of creditable service, add the necessary percentage of the next highest fiscal years' salaries to complete 5 years of creditable service.

4. The average final compensation shall be the annual average of the total obtained in 3.

(b) For a member who has creditable service only as a Special Risk Class ~~special risk~~ member:

Normal Monthly Benefit =

$$\frac{(\text{Product of } A_i \times B_i) \times AFC}{12}$$

as i varies from 1 to 6

Where A_i corresponds to B_i as follows:

A_1 is – 2% at any age.

B₁ is – The sum of all complete years and fractions of a year of creditable Special Risk Class ~~special-risk~~ service under the Florida Retirement System prior to October 1, 1974 and all creditable Special Risk Class ~~special-risk~~ service performed October 1, 1978 through December 31, 1988.

A₂ is – 3% at any age.

B₂ is – The sum of all complete years and fractions of a year of creditable Special Risk Class ~~special-risk~~ service under the Florida Retirement System October 1, 1974 through September 30, 1978 and all creditable Special Risk Class ~~special-risk~~ service performed on and after January 1, 1993; and for Special Risk Class members who retire on or after July 1, 2000, all creditable Special Risk Class ~~special-risk~~ service performed on and after October 1, 1974.

A₃ is – 2.2% at any age.

B₃ is – The sum of the complete year or fraction of the year of creditable Special Risk Class ~~special-risk~~ service under the Florida Retirement System January 1, 1989 through December 31, 1989.

A₄ is – 2.4% at any age.

B₄ is – The sum of the complete year or fraction of the year of creditable Special Risk Class ~~special-risk~~ service under the Florida Retirement System January 1, 1990 through December 31, 1990.

A₅ is – 2.6% at any age.

B₅ is – The sum of the complete year or fraction of the year of creditable Special Risk Class ~~special-risk~~ service under the Florida Retirement System January 1, 1991 through December 31, 1991.

A₆ is – 2.8% at any age.

B₆ is – The sum of the complete year or fraction of the year of creditable Special Risk Class ~~special-risk~~ service under the Florida Retirement System January 1, 1992 through December 31, 1992.

AFC (Average Final Compensation) is – Computed the same as in paragraph 60S-4.004(1)(a), F.A.C.

(c) For a member who has creditable service only as an Elected Officer member:

Normal Monthly Benefit =

$$\frac{(A \times B) + (A_1 \times B_1) \times AFC}{12}$$

Where:

A is – 3^{1/3}% for all service in the Elected Officers’ Class as a supreme court justice, district court of appeal judge, circuit court judge, or a county court judge, and all service as judge of a court of record, judge of a civil or criminal court of record, judge of any metropolitan court established pursuant to section 6, Article VIII of the State Constitution, judge of a small

claims court, or justice of the peace, for which additional credit in the Elected Officers’ Class has been purchased by a member of that class who is or was a justice or judge.

B is – The sum of all complete years and fractions of a year of creditable service having the value of 31/3%.

A₁ is – 3% for all service in the Elected Officers’ Class other than that service represented by the alphabetic designation of A.

B₁ is – The sum of all complete years and fractions of a year of creditable service having the value of 3%.

AFC (Average Final Compensation) – is computed the same as in paragraph 60S-4.004(1)(a), F.A.C. If a member receives compensation as a member of the Elected Officers’ Class and at the same time receives compensation for employment in some other position covered by the Florida Retirement System, only the salary received as a member of the Elected Officers’ Class shall be used in the calculation of his or her average final compensation. If a member has received credit for upgraded previous Elected Officers’ Class service as provided in Rule 60S-2.013, F.A.C., and the upgraded service salary is greater than his or her actual salary, the upgraded service salary shall be used in the calculation of his or her average final compensation.

(d) For a member who has creditable service only as a senior management service member:

Normal Monthly Benefit =

$$\frac{A \times B \times AFC}{12}$$

Where:

A is – 2.00% at any age.

B is – The sum of all complete years and fractions of a year of creditable service in the Senior Management Service Class on and after February 1, 1987.

AFC (Average Final Compensation) is – Computed the same as in paragraph 60S-4.004(1)(a), F.A.C.

(e) No change.

(2) The normal monthly retirement benefit for a member who retires with creditable service under the Florida Retirement System and the State and County Officers and Employees’ Retirement System, the Judicial Retirement System, the Teachers’ Retirement System, or the Highway Patrol Pension System shall be the sum of the normal monthly benefit for his or her creditable service under the Florida Retirement System as calculated in accordance with subsection 60S-4.004(1), F.A.C., and the normal monthly benefit the member would have been eligible to receive for his or her creditable service under any of the other-named retirement systems, calculated as follows:

(a) A member with creditable service under the Florida Retirement System and Plan A of the State and County Officers and Employees’ Retirement System:

$$\text{Normal Monthly Benefit} = \frac{(A \times B \times \text{AFC}) + (A_1 \times B_1 \times \text{AFC})}{12}$$

Where:

A and B are – The same as in subsection 60S-4.004(1), F.A.C.

A₁ is – 2%

B₁ is – The sum of all complete years and fractions of a year of creditable service under Plan A.

AFC is – The same average as calculated in paragraph 60S-4.004(1)(a), F.A.C.

(b) A member with creditable service under the Florida Retirement System and Plan B of the State and County Officers and Employees’ Retirement System:

$$\text{Normal Monthly Benefit} = \frac{(A \times B \times \text{AFC}) + (A_2 \times B_2 \times \text{AFC})}{12}$$

Where:

A and B are – The same as in subsection 60S-4.004(1), F.A.C.

A₂ is – 1.50%

B₂ is – The sum of all complete years and fractions of a year of creditable service under Plan B and by Metro Dade County employees employed on or after July 1, 1969.

AFC is – The same average as calculated in paragraph 60S-4.004(1)(a), F.A.C.

(c) A member with creditable service under the Florida Retirement System and the Judicial Retirement System:

$$\text{Normal Monthly Benefit} = \frac{(A \times B \times \text{AFC}) + (A_3 \times B_3 \times \text{AFC})}{12} \text{ plus } \frac{(A_4 \times B_4 \times \text{AFC}) + (A_5 \times B_5 \times \text{AFC})}{12}$$

Where:

A and B are – The same as in subsection 60S-4.004(1), F.A.C.

A₃ is – 3.33%

B₃ is – The sum of all complete years and fractions of a year of creditable service as a justice or judge, except service as a supreme court justice, if the justice was in office on July 1, 1957.

A₄ is – 5%

B₄ is – The sum of all complete years and fractions of a year of creditable service as a supreme court justice if in office on July 1, 1957.

A₅ is – 2%

B₅ is – The sum of all complete years and fractions of a year of creditable service not as a justice or judge, and which the member was eligible to claim prior to transferring to the Florida Retirement System.

AFC is – The same average as calculated in subsection 60S-4.004(1), F.A.C.

(d) A member with creditable service under the Florida Retirement System and Plan E of the Teachers’ Retirement System:

$$\text{Normal Monthly Benefit} = \frac{(A \times B \times \text{AFC}) + (A_6 \times B_6 \times \text{AFC})}{12}$$

Where:

A and B are – The same as in subsection 60S-4.004(1), F.A.C.

A₆ is – 2%

B₆ is – The sum of all complete years and fractions of a year of creditable service under Plan E of the Teachers’ Retirement System:

AFC is – The same average as calculated in subsection 60S-4.004(1), F.A.C.

(e) A member with creditable service under the Florida Retirement System and the Highway Patrol Pension System:

$$\text{Normal Monthly Benefit} = \frac{(A \times B \times \text{AFC}) + (A_7 \times B_7 \times \text{AFC})}{12} \text{ plus } \frac{(A_8 \times B_8 \times \text{AFC})}{12}$$

Where:

A₇ is – 2.50% for creditable service under the Highway Patrol Pension System not to exceed 20 years of credit, if the member was employed on or before June 30, 1953.

B₇ is – The sum of all complete years and fractions of a year of creditable service under the Highway Patrol Pension System not to exceed 20 years, if the member was employed on or before June 30, 1953.

A₈ is – 2%

B₈ is – The sum of all complete years and fractions of a year of creditable service under the Highway Patrol Pension System not valued at 2.50%.

AFC is – The same average as calculated in subsection 60S-4.004(1), F.A.C.

(f) No change.

(g) The normal retirement benefit for a member of the State and County Officers’ and Employees’ Retirement System shall be calculated in accordance with the provisions of chapter 122, F.S., and the normal retirement benefit for a member of the Teachers’ Retirement System shall be calculated in accordance with the provisions of Chapter 238, F.S.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021, 121.052, 121.055, 121.091(1) FS. History–New 1-1-72, Amended 10-20-72, 12-31-74, 7-1-79, 2-6-84, 4-17-85, Formerly 22B-4.04, Amended 1-12-87, 2-7-89, 9-5-90, 5-15-91, Formerly 22B-4.004, Amended 8-13-03.

60S-4.005 Benefits Payable Upon Early Retirement.

(1)(a) Upon proper application to the Administrator, an FRS Pension Plan member may receive an early retirement benefit if he or she has satisfied the service requirements for vesting as provided in paragraph 60S-4.003(1)(b), F.A.C., but he or she has not reached his or her normal retirement age.

1. Upon proper application to the Administrator, a State and County Officers' and Employees' Retirement System member other than a high hazard member may receive an early retirement benefit if he or she has satisfied the requirements of Section 122.08(2), F.S., but he or she has not reached the age and service requirements for normal retirement as provided in Section 122.08(1), F.S.

2. Upon proper application to the Administrator, a State and County Officers' and Employees' Retirement System high hazard member may receive an early retirement benefit if he or she has satisfied the requirements of Section 122.34(4), F.S., but he or she has not reached the age and service requirements for normal retirement as provided in Section 122.34(3), F.S.

(c) Upon proper application to the Administrator, a Teachers' Retirement System member may receive an early retirement benefit if he or she has satisfied the requirements of Section 238.07(2)(e)2., F.S., but he or she has not reached the age and service requirements for normal retirement as provided in Section 238.07(2)(e)1., F.S.

(2)(a) The maximum early retirement benefit for FRS Pension Plan a member shall be calculated as follows:

1. (a) Compute the normal benefit in accordance with Rule 60S-4.004, F.A.C.

2. (b) This normal retirement benefit is multiplied by the applicable early retirement factor found in the Early Retirement Factors table in Rule 60S-7.003, F.A.C., to determine the maximum early retirement benefit. The early retirement factor shall be selected by determining the number of complete months that the member's early retirement date precedes his or her normal retirement age of 62 for a Regular Class regular member, Elected Officers' Class elected state officer member or Senior Management Service Class senior management service member, and age 55 for a Special Risk Class special-risk member.

3. (e) Notwithstanding the above, if the employment of a member is terminated by reason of death after the completion of 20 years of creditable service, the monthly benefit payable to the member's beneficiary shall be calculated in accordance with Rule 60S-4.004, F.A.C., but based on average monthly compensation and creditable service as of the date of death. The benefit computed shall be reduced by five-twelfths of 1 percent of each complete month by which death precedes the normal retirement age or the date on which the member would have attained 30 years of creditable service had he or she survived and continued his or her employment, whichever provides a higher benefit. This paragraph shall not apply to a member who dies after he or she has terminated employment.

(b) The maximum early retirement benefit for a member of the State and County Officers' and Employees' Retirement System shall be calculated as follows:

1. Compute the normal benefit in accordance with Rule 60S-4.004, F.A.C.

2. This normal retirement benefit is multiplied by the applicable early retirement factor found in the Early Retirement Factors table in Rule 60S-7.003, F.A.C., to determine the maximum early retirement benefit. The early retirement factor shall be selected by determining the number of complete months that the member's early retirement date precedes his or her normal retirement date as provided in Section 122.08, F.S., for a non high hazard member and in Section 122.34, F.S. for a high hazard member.

(c) The maximum early retirement benefit for a member of the Teachers' Retirement System shall be calculated as follows:

1. Compute the normal benefit in accordance with Rule 60S-4.004, F.A.C.

2. This normal retirement benefit is multiplied by the applicable early retirement factor found in the Early Retirement Factors table in Rule 60S-7.003, F.A.C., to determine the maximum early retirement benefit. The early retirement factor shall be selected by determining the number of complete months that the member's early retirement date precedes his or her normal retirement date as provided in Section 238.07, F.S.

Rulemaking Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.021(30), 121.091(3), 121.052(5), 121.055 FS. History--New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 8-26-81, Formerly 22B-4.05, Amended 1-12-87, Formerly 22B-4.005, Amended 12-12-96, 8-13-03,_____.

60S-4.006 Benefits Based on Dual Retirement Ages.

(1) Upon proper application to the Division, an FRS Pension Plan a member who has creditable service as a Regular Class regular, Elected Officers' Class, or Senior Management Service Class senior management service member, and as a Special Risk Class special-risk member shall be eligible to receive benefits in accordance with this section.

(2) An FRS Pension Plan A member shall be eligible to receive a benefit based on dual retirement ages equal to the normal benefit for his or her Regular Class regular, Elected Officers' Class, or Senior Management Service Class senior management service as calculated in accordance with paragraphs 60S-4.004(1)(a), (c) or (d), F.A.C., and the normal benefit for his or her Special Risk Class special-risk service as calculated in accordance with paragraph 60S-4.004(1)(b), F.A.C., if he or she has satisfied the service requirements for vesting as provided in paragraph 60S-4.003(1)(b), F.A.C., and has attained normal retirement age as follows:

(a) He or she has reached age 62; or

(b) He or she has completed 30 years of creditable service, regardless of age.

(3) An FRS Pension Plan A member shall be eligible to receive a benefit based on dual retirement ages equal to the sum of the early benefit for his or her Regular Class regular, Elected Officers' Class, or Senior Management Service Class special management service as calculated in accordance with Rule 60S-4.005, F.A.C., and the normal benefit for his or her Special Risk Class special-risk service as calculated in accordance with paragraph 60S-4.004(1)(b), F.A.C., if he or she has satisfied the service requirements for vesting as provided in paragraph 60S-4.003(1)(b), F.A.C., and has not attained normal retirement age as listed in paragraphs 60S-4.006(2)(a) and (b), F.A.C., but has attained normal Special Risk Class special-risk retirement age as follows:

(a) He or she has reached age 55; or

(b) He or she has completed 25 years of creditable service that includes credit for military service, and has reached age 52; or

(c) He or she has completed 25 years of creditable service, regardless of age.

(4) A member shall be eligible to receive a benefit based on dual retirement ages equal to the sum of the early retirement benefit for his or her Regular Class regular, Elected Officers' Class, or Senior Management Service Class senior management service as calculated in accordance with Rule 60S-4.005, F.A.C., and the early retirement benefit for his or her Special Risk Class special-risk service as calculated in accordance with Rule 60S-4.005, F.A.C., if he or she has satisfied the service requirements for vesting as provided in paragraph 60S-4.003(1)(b), F.A.C., and he or she has not attained normal Special Risk Class special-risk retirement age as listed in paragraphs 60S-4.006(3)(a), (b) and (c), F.A.C.

Rulemaking Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.021, 121.052(5), 121.055, 121.091(2) FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 7-1-79, Formerly 22B-4.06, Amended 1-12-87, Formerly 22B-4.006, Amended 1-25-94, 8-13-03, _____.

60S-4.007 Benefits Payable for Disability Retirement.

(1) A member of the Pension Plan or a participant of the Investment Plan shall be eligible to apply for a disability benefit in accordance with Section 121.091(4), F.S., provided:

(a) through (b) No change.

(c) The member has creditable service as follows:

1. through 4. No change.

5. The member was employed on July 1, 1980, had completed less than 5 years of creditable service on that date, but has since completed a total of 5 years creditable service and provides proof that he or she has not attained a fully insured status for benefits under the federal Social Security Act; and

(d) The member's eligibility to apply is verified by the Administrator upon the receipt of the disability retirement application; Form FR-13, for FRS Pension Plan members and Form PR-13, for FRS Investment Plan members as adopted in paragraph 60S-4.003 (1)(c), ~~Rule 60S-9.001~~, F.A.C., according to the following:

1. If the Administrator determines that the member has satisfied the eligibility requirements, the Administrator will then consider the member's total and permanent disability claim (Form FR-13 for FRS Pension Plan members or Form PR-13 for FRS Investment Plan members) as provided in paragraphs 60S-4.007(2)(b) and (d), F.A.C.

2. Should the Administrator determine that the member has failed to satisfy such eligibility requirements, the member shall be notified by certified mail with return receipt requested. If the member disagrees with the determination, he or she may petition in writing the State Retirement Commission Division of Retirement for an administrative hearing pursuant to Sections 120.569 and 120.57(1) Chapter 120, F.S. If no petition is filed within 21 calendar days of receipt of the certified letter, the determination will become final.

(2) An FRS A member who is eligible in accordance with subsection 60S-4.007(1), F.A.C., shall receive a disability benefit provided:

(a) The member is totally and permanently disabled by reason of a medically determinable physical or mental impairment which prevents him or her from rendering useful and efficient service as an officer or employee. The unavailability of an employment position that the member is physically and mentally capable of performing shall not be a factor in such determination of total and permanent disability. The member shall be considered disabled in the line-of-duty if his or her injury or illness arose out of and in the actual performance of duty required by the member's employment. Documentation must show that:

1. The member's medical condition occurred or became symptomatic during the time the member was employed in an employee/employer relationship with his or her employer; and

2. The member was totally and permanently disabled at the time he or she terminated his or her covered employment; and

3. The member was not employed with any other employer after such termination; and

4. If the application is for in-line-of-duty disability, the disability must have been caused ~~or aggravated~~ by a job-related illness or accident which occurred while the member was in an employee/employer relationship with his or her employer; and

(b) The member makes proper application in accordance with Rule 60S-4.0035, F.A.C., and submits the following to the Division which must include documentation attesting to the criteria in paragraph (a):

1. Application for Disability Retirement (~~Form FR-13 to be completed by the member~~);

a. An FRS Pension Plan member shall submit application on Form FR-13, Florida Retirement System Pension Plan Application for Disability Retirement, adopted in Rule 60S-4.0035, F.A.C.:

b. An FRS Investment Plan member shall submit application on Form PR-13, Florida Retirement System Investment Plan Application for Disability Retirement, adopted in Rule 60S-4.0035, F.A.C.:

2. Statement of Disability by Employer, (Form FR-13a) (Rev. 07/06), Florida Retirement System Statement of Disability by Employer, herein adopted by reference; ~~adopted in Rule 60S-9.001, F.A.C.~~ to be completed by the member's employer;

3. Two Physician's Reports (Form FR-13b) ~~adopted in Rule 60S-9.001, F.A.C.~~ to be completed by two Florida licensed physicians as follows: and

a. Such reports shall be completed and submitted to the Division on Form FR-13b (Rev. 06/06) Florida Retirement System Physician's Report, herein adopted by reference.

b. Effective July 1, 2005, a member employed in a Florida Retirement System (FRS)-covered position who is permanently assigned by his or her FRS employer to work outside the State of Florida, but within the United States, may have the FR-13b forms completed by two licensed physicians of the state of work assignment;

4. Any other evidence of disability requested by the Administrator which may include reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment; and

(c) The member terminates all employment; and

(d) The Administrator approves the member's application for regular disability or in-line-of-duty disability according to the following:

1. Upon receipt of the completed application and all required documents as provided in paragraph 60S-4.007(2)(b), F.A.C. (Forms FR-13, FR-13a and FR-13b) the Administrator shall determine if the member is totally and permanently disabled by reason of a medically determinable physical or mental impairment which prevents him or her from rendering useful and efficient service as an officer or employee. If the member has applied for in-line-of-duty disability, the Administrator will also determine if the member's injury or illness arose out of and in the actual performance of duty required by the member's employment.

2. Any firefighter, paramedic, emergency medical technician, law enforcement officer or correctional officer who is approved for disability retirement due to hepatitis, meningococcal meningitis, or tuberculosis, is presumed to be disabled in the line of duty, unless the contrary is shown by competent evidence, provided:

a. The member, after diagnosis of hepatitis, meningococcal meningitis, or tuberculosis, verifies by written affidavit that he or she was not exposed, outside the scope of his or her employment, to such diseases, as provided in paragraphs 112.181(2)(a), (b) and (c), F.S.; and

b. The member, prior to diagnosis, undergoes immunization or prophylaxis for the prevention of hepatitis, meningococcal meningitis, or tuberculosis, when such immunization or prophylaxis exists and where medically indicated, and unless the member is advised by his or her doctor in writing that immunization or prophylaxis would pose a significant risk to his or her health, as provided in subsection 112.181(3), F.S.; and

c. through d. No change.

3. No change.

4. The member shall be notified of the Administrator's approval as follows:

a. If the Administrator approves the member's application for regular disability or in-line-of-duty disability benefits the member shall be notified and shall receive benefits as provided in subsection 60S-4.007(5), F.A.C.

b. For a member who has applied for in-line-of-duty disability benefits, if the Administrator determines that the member is totally and permanently disabled but that such member's illness or injury did not arise out of and in the actual performance of duty required by the member's employment, the Administrator shall notify the member that his or her application for in-line-of-duty disability benefits is denied but that, if eligible, such member shall receive regular disability benefits as provided in paragraph 60S-4.007(5)(b), F.A.C. If such member chooses to appeal the Administrator's denial of in-line-of-duty disability benefits as provided in subsection 60S-4.007(3), F.A.C., the member may choose to begin receiving the regular disability benefits while appealing such denial.

(3) Should the Administrator determine that a member has failed to demonstrate total and permanent regular disability or in-line-of-duty disability, as provided in paragraph 60S-4.007(2)(a), F.A.C., the following procedure shall be followed:

(a) The member shall be notified by certified mail with return receipt requested. The notice shall include a summary of the factual, legal and policy grounds for the Administrator's intended decision. ~~A copy of the notice shall be sent to the member's employer.~~

(b) When a member receives notice that the Administrator intends to deny his or her application, he or she shall have 21 calendar days to present written evidence to the Administrator in opposition to the intended action or written objections challenging the grounds upon which the Administrator has based his or her intended decision.

(c) If the Administrator overrules the objections of the member, he or she shall within 21 calendar days provide a written explanation to the member by certified mail with return receipt requested, giving the reasons for his or her decision and advising the member of his or her right of appeal under the law. A copy of this final decision on the merits shall be sent to the member's employer.

(d) If the member does not accept the Administrator's final decision on the merits, the member may request in writing a hearing on his or her disability claim before the State Retirement Commission pursuant to Section 120.57(1), F.S. Such request shall be made within 21 calendar days from the date the member receives notice of the Administrator's final decision. If the State Retirement Commission's decision upholds the member's request for disability retirement benefits, the Commission may include in the retirement order an amount for reasonable attorney's fees and taxable costs. The amount of the attorney's fee shall be determined by the commission and shall not exceed 50 percent of the initial yearly benefit awarded to the member. The taxable costs shall be calculated in accordance with the statewide uniform guidelines for taxation of costs in civil actions.

(e) through (f) No change.

(g) A member whose application for regular disability retirement has been denied may, if eligible, elect to receive normal or early service retirement benefits after he or she has filed an appeal to the State Retirement Commission and is awaiting the decision on the appeal. If the member elects to receive service retirement benefits and disability benefits are later approved as a result of the appeal, the payment option chosen by the member cannot be changed. If the member elects to receive early service retirement and the appeal is later denied, the member cannot change his or her election of early retirement. Before beginning to receive regular or early retirement benefits, the member must complete and submit Form SRA-1 (Rev. 12/04), Florida Retirement System Pension Plan Service Retirement Agreement, herein adopted by reference, to the Division attesting to the fact provide to the Division a statement that he or she understands that he or she cannot make such changes after he or she begins receiving the benefits.

(4) A member, whose initial application for disability retirement has been denied, may reapply for disability benefits; however, such member's reapplication will be considered only if the member presents new medical evidence of a medical condition that existed prior to the member's termination of employment.

(a) To reapply, the FRS member shall submit to the Division:

1. A new Application for Disability Retirement as provided in paragraph 60S-4.0035(1)(c), F.A.C. (Form FR-13). The ~~member's~~ effective retirement date shall be established as provided in paragraph 60S-4.0035(3)(b), F.A.C., based on the date of receipt of the new application; and

2. A new Statement of Disability by Employer as provided in subparagraph 60S-4.007(3)(b)2., F.A.C., (Form FR-13a), only if an employee/employer relationship has existed since the date of the initial disapproval; and

3. Two new Physician's Reports ~~(Form FR-13b)~~ completed as provided subparagraph 60S-4.007(3)(b)3., F.A.C. by two Florida licensed physicians. The application will be considered only if the physician certifies the following:

a. The member's medical condition occurred or became symptomatic during the time the member was employed in an employee/employer relationship with his or her employer; and

b. The member was totally and permanently disabled at the time he or she terminated his or her covered employment, and he or she has not been employed with any other employer after such termination; and

c. If the application is for in-line-of-duty disability, the disability was caused ~~or aggravated~~ by a job-related illness or accident which occurred while the member was in an employee/employer relationship with his or her employer.

(b) The reapplication for disability retirement will be reviewed to determine if the information had not been previously available or if new information from the previous physicians has been submitted, as follows:

1. If no new medical information is received, the reapplication for disability retirement will be disapproved as provided in subsection 60S-4.007(3), F.A.C., and the member will be advised of his or her right to an Administrative Hearing under Chapter 120, F.S.

2. If new medical information is received, the same review and approval or disapproval process will be followed as for an initial application as provided in subsection 60S-4.007(2), F.A.C. If the reapplication is disapproved, and regardless of whether the member appealed the initial disapproval decision to the State Retirement Commission, the member may request a hearing before the State Retirement Commission under Section 120.57(1), F.S., as provided in subsection 60S-4.007(3), F.A.C.

(5) An FRS member who has received approval from the Administrator shall receive benefits in accordance with the following:

(a) The FRS member approved for in-line-of-duty disability may elect to receive:

1. A monthly benefit computed in the same manner as for a normal retirement benefit under Option 1 in subsection 60S-4.010(1), F.A.C., as if the member had reached normal retirement age, but based on his or her average final compensation and creditable service as of his or her disability retirement date, except that, if this produces a benefit which is

less than 42 percent of his or her average monthly compensation as of his or her disability retirement date, he or she shall receive a benefit equal to 42 percent of his or her average monthly compensation, except that a Special Risk Class member who retires on or after July 1, 2000, shall receive a benefit equal to at least 65 percent of his or her average monthly compensation; or

2. A monthly benefit computed in the same manner as for a normal retirement benefit under Options 2, 3 or 4 as provided in paragraphs 60S-4.010(1)(b), (c) and (d), F.A.C. The benefit payable shall be the actuarial equivalent of the disability benefit as described in subparagraph 1. above to which the member would otherwise be entitled.

(b) The FRS member approved for regular disability may elect to receive:

1. A monthly benefit computed in the same manner as for a normal retirement benefit under Option 1 in subsection 60S-4.010(1), F.A.C., as if the member had reached normal retirement age, but based on his or her average final compensation and creditable service as of his or her disability retirement date, except that if this produces a benefit which is less than 25 percent of his or her average monthly compensation as of his or her disability retirement date, he or she shall receive a benefit equal to 25 percent of his or her average monthly compensation; or

2. A monthly benefit computed in the same manner as for a normal retirement benefit under Options 2, 3 or 4 as provided in paragraphs 60S-4.010(1)(b), (c) and (d), F.A.C. The benefit payable shall be the actuarial equivalent of the disability benefit as described in subparagraph 1. above to which the member would otherwise be entitled.

3. The FRS Pension Plan member shall make his or her option selection as prescribed in subsection 60S-4.010(1), F.A.C. A married member who selects option 1 under paragraph (a) or option 2 under paragraph (b) shall notify his or her spouse of such option selection, and the spouse shall acknowledge any such option selection in accordance with subsection 60S-4.010(9), F.A.C.

4. The FRS Investment Plan member shall make his or her option selection on Form PR-110 (Rev. 02/10), Florida Retirement System Investment Plan Option Selection for Disability Retirement, herein adopted by reference, which also requires such member to attest to his or her marital status on Form SA-2 (02/10), Florida Retirement System Investment Plan Spousal Acknowledgment Form for Disability Retirement, herein adopted by reference. A married member who selects option 1 under paragraph (a) or option 2 under paragraph (b) shall notify his or her spouse of such option selection, and the spouse shall acknowledge any such option selection on the SA-2 form.

(6) No change.

(7) Nonadmissible causes of disability shall be as follows:

(a) A member shall not be entitled to receive any disability retirement benefit other than a refund of his or her contributions if his or her disability is a result of any of the following:

1. Injury or disease sustained by a member who is convicted of willfully participating in riots, civil insurrections, or other acts of violence while committing a felony;

2. Injury or disease sustained by the member after his or her employment has terminated; or

3. Intentional self-inflicted injury.

(b) A member shall not be entitled to receive in-line-of-duty disability benefits when the disability results from drug or alcohol abuse except when the member is expected to use alcohol in the course of official undercover law enforcement work and such use clearly results in his or her disability.

(8) A member who retires under disability, subsequently recovers, and does not reenter covered employment shall notify the Division immediately to have his or her disability benefits discontinued and shall be subject to the following provisions:

(a) If he or she was not vested as of his or her disability retirement date, he or she shall be entitled to the excess, if any, of his or her accumulated contributions over the total disability benefits received up to his or her date of recovery.

(b) If he or she was vested as of his or her disability retirement date, he or she may elect to receive:

1. The excess, if any, of his or her accumulated contributions over the total disability benefits received up to his or her date of recovery; or

2. If the member has not reached normal retirement age at the time of recovery, he or she may receive a monthly benefit at the time he or she reaches normal retirement age, calculated in accordance with Rule 60S-4.004, F.A.C., based on his or her average final compensation and creditable service as of his or her disability retirement date.

3. If the member has not reached normal retirement age at the time of recovery, he or she may receive an early retirement benefit calculated as provided in Rule 60S-4.005, F.A.C., based on his or her average final compensation and creditable service as of his or her disability retirement date.

4. If the member has reached normal retirement age at the time of recovery, he or she may receive a normal retirement benefit as calculated in accordance with Rule 60S-4.004, F.A.C., based on his or her average final compensation and creditable service as of his or her disability retirement date.

(9) An FRS member who retires under disability, subsequently recovers and reenters covered employment shall notify the Division immediately to have his or her disability benefits discontinued and shall be subject to the following provisions:

(a) If he or she reenters covered employment within 6 months after his or her recovery, his or her service will be considered to have been continuous, but the period beginning

with his or her disability retirement date and ending with the date he or she reenters employment will not be counted as creditable service for the purpose of computing benefits, except as provided in paragraphs 60S-4.007(9)(8)(b) and (c), F.A.C.

(b) He or she shall notify the Division immediately upon reemployment. Any employer who employs a disability retiree who is receiving disability benefits shall notify the Division upon employment of such member, and the Division shall terminate such member's disability benefits effective the first day of the month following the month in which notification of recovery is received. If the member is reemployed with a Florida Retirement System employer at the time of benefit termination and he or she has received disability retirement benefit and salary payments concurrently prior to notifying the Division, he or she may elect within 30 days to:

1. Retain the retirement benefits received prior to termination of disability benefits and begin receiving retirement service credit effective the date of termination of benefits, or

2. Repay within 12 months of his or her decision to receive service credit, the retirement benefits received for each month of reemployment prior to termination of disability benefits and begin receiving retirement service credit effective the date of reemployment. Any such unpaid benefits shall have compound interest of 6.5 percent added June 30.

3. No member shall receive both retirement service credit for employment, and retirement benefits for the same month.

(c) If he or she is continuously reemployed in a regularly established position for a minimum of one work year he or she may claim as creditable service the months during which he or she received a disability benefit as provided in Rule 60S-2.018, F.A.C.

(10) The Division of Retirement may conduct periodic reexaminations of FRS members who have been granted either regular or in-line-of-duty disability under the provisions of Chapter 121, F.S., to determine whether or not such members continue to meet the disability criteria applicable in their cases. The following procedures shall govern disability reexamination cases:

(a) The Division will mail the member the following forms which are to be completed by the member and his or her physician and returned to the Disability Determination Section of the Division within 60 days, unless an extension of time is requested and approved by the Division:

1. Form FR-13e (Rev. 07/06), "Florida Retirement System Retiree's Report of Continuing Disability" herein adopted by reference; and

2. Form FR-13f (Rev. 07/06), "Florida Retirement System FRS Physician's Report of Reexamination" herein adopted by reference.

~~in Rule 60S-9.001, F.A.C. Such forms should be completed by the member and his physician and returned to the Disability Determination Section within 60 days, unless an extension of time is requested and approved by the Division.~~

(b) through (c) No change.

(d) Based on the information obtained pursuant to the provisions of paragraphs (a) and (b), if the Administrator finds the member is no longer disabled and is employable under the criteria used to determine his or her original disability, the member will be notified by certified mail of the initial findings and conclusions and that the Administrator intends to discontinue his or her disability retirement benefit. The notice shall include a summary of the factual, legal and policy grounds for the intended decision.

(e) When a member receives notice that the Administrator intends to discontinue his or her disability retirement benefits, he or she shall have 21 calendar days to present written evidence in opposition to the intended action or written objections challenging the grounds upon which the Administrator has based his or her intended decision. The member may submit additional evidence or a written statement for reconsideration of the Division's denial of benefits and his or her retirement benefit will continue subject to reconsideration.

(f) After reconsideration of the member's file, including any additional evidence or written statement submitted by the member or obtained by the Division, the Administrator shall within 21 calendar days provide a written final decision on the merits to the member by certified mail if the member was found not to be disabled or by regular mail if the member was found to be disabled. Such written final decision shall give ~~giving~~ the reasons for the decision and will notify the member that his or her benefits will continue if he or she is found to be disabled or will terminate effective the first day of the following month if he or she is found to be not disabled.

(g) through (i) No change.

(11) An FRS member who has completed the vesting requirements as provided in paragraph 60S-4.003(1)(b), F.A.C., with service as a justice of the supreme court, judge of a district court of appeals, circuit judge, judge of a county court, or as an elected constitutional Judicial Officer, including service as a Judicial Officer in any court abolished pursuant to Article V of the State Constitution and who is retired for disability by order of the supreme court upon recommendation of the Judicial Qualifications Commission pursuant to the provisions of Article V, State Constitution, shall:

(a) Receive an Option 1 monthly benefit as provided in paragraph 60S-4.010(1)(a), F.A.C., that shall be not less than two-thirds of his or her monthly compensation as of his or her disability retirement date; or he or she may elect to receive a disability retirement benefit under any other option as provided in subparagraph 60S-4.007(5)(4)(b)2., F.A.C.; and

(b) Have all contributions made by him or her or his or her employer in his or her behalf transferred to the General Revenue Fund of the State; and

(c) Have the amount necessary to pay his or her benefits appropriated annually from the General Revenue Fund and paid into the Florida Retirement System Trust Fund.

(12) A member of the State and County Officers' and Employees' Retirement System (SCOERS) shall be eligible to apply for a disability benefit in accordance with Chapter 122, F.S., provided:

(a) The member's eligibility to apply is verified by the Administrator upon the receipt of Form SR-13, State and County Officers' and Employees' Retirement System Application for Disability Retirement, as adopted in Rule 60S-4.0035, F.A.C., according to the following:

1. If the Administrator determines that the member has satisfied the eligibility requirements of Chapter 122, F.S., the Administrator will then consider the members' disability claim (Form SR-13).

2. Should the Administrator determine that the member has failed to satisfy such eligibility requirements, the member shall be notified by certified mail with return receipt requested. If the member disagrees with the determination, he may petition in writing the Division of Retirement for an administrative hearing pursuant to Chapter 120, F.S. If no petition is filed within 21 calendar days of receipt of the certified letter, the determination will become final.

(13) A SCOERS member who is eligible in accordance with subsection 60S-4.007(12), F.A.C., shall receive a disability benefit provided:

(a) The member satisfies the eligibility criteria of Chapter 122, F.S. and provides documentation to substantiate satisfaction of the eligibility criteria; and

(b) The member makes proper application in accordance with Rule 60S-4.0035, F.A.C., and submits the following to the Division which must include documentation attesting to the criteria in paragraph (a):

1. Application for Disability Retirement, Form SR-13, State and County Officers' and Employees' Retirement System Application for Disability Retirement, adopted in Rule 60S-4.0035, F.A.C., completed by the member;

2. Statement of Disability by Employer, Form SR-13a (Rev. 09/71), State and County Officers' and Employees' Retirement System Statement of Disability by Employer, herein adopted by reference to be completed by the member's employer;

3. A Physician's Report, Form SR-13b (Rev. 09/71), State and County Officers' and Employees' Retirement System Physician's Report, herein adopted by reference to be completed by a Florida licensed physician;

4. Any other evidence of disability requested by the Administrator which may include reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment; and

(c) The member terminates all employment; and

(d) Upon receipt of the completed application and all required documents as provided in paragraph 60S-4.007(13)(b), F.A.C., the Administrator shall determine if the member is disabled by reason of a medically determinable physical or mental impairment in accordance with Chapter 122, F.S. If a high hazard member has applied for in-line-of-duty disability, the Administrator will also determine if the member's injury or illness arose out of and in the actual performance of duty required by the member's employment.

(e) The member shall be notified of the Administrator's approval as follows:

1. If the Administrator approves the member's application for regular disability or in-line-of-duty disability benefits the member shall be notified and shall receive benefits in accordance with Chapter 122, F.S.

2. For a high hazard member who has applied for in-line-of-duty disability benefits, if the Administrator determines that such member's illness or injury did not arise out of and in the actual performance of duty required by the member's employment, the Administrator shall notify the member that his or her application for in-line-of-duty disability benefits is denied. Such member may chose to appeal the Administrator's denial of in-line-of-duty disability benefits as provided in subsection 60S-4.007(3), F.A.C.

(14) The Division of Retirement may conduct periodic reexaminations of members who have been granted either regular or in-line-of-duty disability under the provisions of Chapter 122, F.S., to determine whether or not such members continue to meet the disability criteria applicable in their cases. The following procedures shall govern disability reexamination cases:

(a) The Division will mail the member forms SR-13e (Rev.10/86), State and County Officers' and Employees' Retirement System Retiree's Report of Continuing Disability and SR-13f (Rev. 07/81), State and County Officers' and Employees' Retirement System Physician's Report of Reexamination, herein adopted by reference. Such forms should be completed by the member and his physician and returned to the Disability Determination Section within 60 days, unless an extension of time is requested and approved by the Division.

(b) The Division will review the reports in paragraph (a) and other available sources, such as, but not limited to, Workers' Compensation and Unemployment Compensation.

(c) If the Division finds the member continues to be disabled under the criteria used to determine the original disability, the member will be notified in writing of the findings and conclusions, and further, that disability benefits will continue to be paid.

(d) Based on the information obtained pursuant to the provisions of paragraphs (a) and (b), if the Administrator finds the member is no longer disabled and is employable under the criteria used to determine his original disability, the member will be notified by certified mail of the initial findings and conclusions and that the Administrator intends to discontinue his or her disability retirement benefit. The notice shall include a summary of the factual, legal and policy grounds for the intended decision.

(e) When a member receives notice that the Administrator intends to discontinue his disability retirement benefits, he or she shall have 21 calendar days to present written evidence in opposition to the intended action or written objections challenging the grounds upon which the Administrator has based his or her intended decision. The member may submit additional evidence or a written statement for reconsideration of the Division's denial of benefits and his or her retirement benefit will continue subject to reconsideration.

(f) After reconsideration of the member's file, including any additional evidence or written statement submitted by the member or obtained by the Division, the Administrator shall within 21 calendar days provide a written final decision on the merits to the member by certified mail giving the reasons for the decision and will notify the member that his or her benefits will continue if he or she is found to be disabled or will terminate effective the first day of the following month if he or she is found to be not disabled.

(g) If the member does not accept the Administrator's final decision on the merits, the member may request in writing, pursuant to Section 121.23, F.S. and Chapter 60R-1, F.A.C., a hearing before the State Retirement Commission pursuant to Section 120.57(1), F.S. Such request shall be filed with the Commission within 21 calendar days from the date the member receives the Administrator's final decision.

(h) The decisions of the State Retirement Commission on matters brought before it under this section shall be final agency action.

(i) The decisions of the State Retirement Commission shall be reviewable by the District Court of Appeal pursuant to Section 121.23, F.S.

(15) A member of the Teachers' Retirement System (TRS) shall be eligible to apply for a disability benefit in accordance with Chapter 238, F.S., provided:

(a) The member's eligibility to apply is verified by the Administrator upon the receipt of Form TR-13, Teachers' Retirement System Application for Disability Retirement, as adopted in Rule 60S-4.0035, F.A.C., according to the following:

1. If the Administrator determines that the member has satisfied the eligibility requirements of Chapter 238, F.S., the Administrator will then consider the members' disability claim (Form TR-13).

2. Should the Administrator determine that the member has failed to satisfy such eligibility requirements, the member shall be notified by certified mail with return receipt requested. If the member disagrees with the determination, he or she may petition in writing the Division of Retirement for an administrative hearing pursuant to Chapter 120, F.S. If no petition is filed within 21 calendar days of receipt of the certified letter, the determination will become final.

(16) A member who is eligible in accordance with subsection 60S-4.007(15), F.A.C., shall receive a disability benefit provided:

(a) The member satisfies the eligibility criteria of chapter 238, F.S. and provides documentation to substantiate satisfaction of the eligibility criteria; and

(b) The member makes proper application in accordance with Rule 60S-4.0035, F.A.C., and submits the following to the Division:

1. Application for Disability Retirement, Form TR-13, Teachers' Retirement System Application for Disability Retirement, adopted in Rule 60S-4.0035, F.A.C., completed by the member;

2. Statement of Disability by Employer, Form TR-13a (Rev. 10/86), Teachers' Retirement System Statement of Disability by Employer, herein adopted by reference, to be completed by the member's employer; and

3. A Physician's Report, Form TR-13b (Rev. 10/86), Teachers' Retirement System Physician's Report, herein adopted by reference to be completed by a Florida licensed physician; and

4. Documentation attesting to the criteria in paragraph (a); and

5. Any other evidence of disability requested by the Administrator which may include reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment; and

(c) The member terminates for the type of position the member is presently employed in; and

(d) Upon receipt of the completed application and all required documents as provided in paragraph 60S-4.007(15)(b), F.A.C., the Administrator shall determine if the member is totally and permanently disabled by reason of a medically determinable physical or mental impairment in accordance with Chapter 122, F.S. If the Administrator approves the member's application for regular disability or in-line-of-duty disability benefits the member shall be notified and shall receive benefits in accordance with Chapter 122, F.S.

(e) If the Administrator denies the member's application for regular disability or in-line-of-duty disability, such member may chose to appeal the Administrator's denial as provided in subsection 60S-4.007(3), F.A.C.

(10) The Division of Retirement may conduct periodic reexaminations of members who have been granted disability under the provisions of Chapter 238, F.S., to determine whether or not such members continue to meet the disability criteria applicable in their cases. The following procedures shall govern disability reexamination cases:

(a) The Division will mail the member forms TR-13e (Rev. 02/88), Teachers' Retirement System Retiree's Report of Continuing Disability and TR-13f (Rev.07/81), Teachers' Retirement System Physician's Report of Reexamination, herein adopted by reference. Such forms should be completed by the member and his or her physician and returned to the Disability Determination Section within 60 days, unless an extension of time is requested and approved by the Division.

(b) The Division will review the reports in subsection (a) and other available sources, such as, but not limited to, Workers' Compensation and Unemployment Compensation.

(c) If the Division finds the member continues to be disabled under the criteria used to determine the original disability, the member will be notified in writing of the findings and conclusions, and further, that disability benefits will continue to be paid.

(d) Based on the information obtained pursuant to the provisions of subsections (a) and (b), if the Administrator finds the member is no longer disabled and is employable under the criteria used to determine his original disability, the member will be notified by certified mail of the initial findings and conclusions and that the Administrator intends to discontinue his or her disability retirement benefit. The notice shall include a summary of the factual, legal and policy grounds for the intended decision.

(e) When a member receives notice that the Administrator intends to discontinue his disability retirement benefits, he or she shall have 21 calendar days to present written evidence in opposition to the intended action or written objections challenging the grounds upon which the Administrator has based his or her intended decision. The member may submit additional evidence or a written statement for reconsideration of the Division's denial of benefits and his or her retirement benefit will continue subject to reconsideration.

(f) After reconsideration of the member's file, including any additional evidence or written statement submitted by the member or obtained by the Division, the Administrator shall within 21 calendar days provide a written final decision on the merits to the member by certified mail giving the reasons for the decision and will notify the member that his or her benefits will continue if he is found to be disabled or will terminate effective the first day of the following month if he or she is found to be not disabled.

(g) If the member does not accept the Administrator's final decision on the merits, the member may request in writing, pursuant to Section 121.23, F.S. and Rule Chapter 60R-1, F.A.C., a hearing before the State Retirement Commission pursuant to Section 120.57(1), F.S. Such request shall be filed with the Commission within 21 calendar days from the date the member receives the Administrator's final decision.

(h) The decisions of the State Retirement Commission on matters brought before it under this section shall be final agency action.

(i) The decisions of the State Retirement Commission shall be reviewable by the District Court of Appeal pursuant to Section 121.23, F.S.

Rulemaking Specific Authority 121.031 FS. Law Implemented 112.18, 112.181, 121.021, 121.052(5)(c), 121.055, 121.091(4), 121.23 FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 11-18-75, 1-16-77, 7-1-79, 8-26-81, 1-19-82, 11-6-84, Formerly 22B-4.07, Amended 2-4-86, 1-12-87, 2-7-89, 11-14-91, Formerly 22B-4.007, Amended 3-18-93, 4-5-95, 12-12-96, 2-24-99, 8-13-03,

60S-4.008 Benefits Payable Upon Death.

(1)(a) If the death of an FRS Pension Plan member occurs, other than in-line-of-duty, prior to the member becoming vested, the member's designated beneficiary shall receive a refund of the member's accumulated contributions, except as provided in subsection 60S-2.010(4), F.A.C., and shall make application to the Division for such refund on Form FST-11g (Rev. 03/10), Florida Retirement System Pension Plan Application of Beneficiary for Benefit Payment, herein adopted by reference.

(b) If the death of a State and County Officers' and Employees' Retirement System member occurs prior to the member meeting the requirements for retirement under Chapter 122, F.S., other than for a high-hazard member killed in the line of duty as provided in Section 122.34(6), F.S., the member's designated beneficiary shall only receive a refund of the member's accumulated contributions as provided in Section 122.12, F.S., and shall make application to the Division for such refund on Form FST-11g, Florida Retirement System Pension Plan Application of Beneficiary for Benefit Payment as adopted in paragraph (a).

(c)1. If the death of a Teachers' Retirement System member occurs prior to the member obtaining 10 years of creditable service, the member's designated beneficiary shall receive a refund of the member's accumulated contributions as provided in Section 238.07, F.S., and shall make application to the Division for such refund on Form FST-11g, Florida Retirement System Pension Plan Application of Beneficiary for Benefit Payment as adopted in paragraph (a).

2. In addition, survivor benefits may be payable in accordance with Section 238.07(18), F.S. Survivors meeting the eligibility criteria for such benefits as provided in Section 238.07(18), F.S., shall make application to the Division on

Form TR-11c (Rev. 12/02), Teachers' Retirement System Application for Survivor Benefits herein incorporated by reference. An unmarried surviving dependent child of the deceased member over 18 years of age but not over 22 years of age and enrolled as a student in an accredited education institution meeting the eligibility criteria for survivor benefits under Section 238.07(18), F.S., shall also be required to submit the following to the Division for survivor benefit eligibility determination:

a. An acceptance letter from an accredited educational institution or Form SRF-2 (Rev. 07/99), Teachers' Retirement System Student Report Form, herein adopted by reference, completed by the accredited educational institution; and

b. A completed Form SRF-3 (Rev.07/99), Teachers' Retirement System Authorization for Release of Information, herein adopted by reference; and

c. A completed Form SVF-2 (Rev 07/99), Teachers' Retirement System Affidavit Attesting to Eligibility, herein adopted by reference.

(2)(a) If the death of an FRS Pension Plan a member occurs other than in-line-of-duty after he or she has become vested, but prior to his or her effective date of retirement as provided in subsection 60S-4.0035(3), F.A.C., the following shall apply:

1.(a) If the member's designated beneficiary is not his or her spouse or other dependent who qualifies as a joint annuitant, the Division shall refund the member's accumulated contributions to the member's designated beneficiary; or

2.(b) If a member's designated beneficiary qualifies as joint annuitant (spouse or other dependent) the following shall apply:

a.1- The joint annuitant may elect to receive a refund of the member's accumulated contributions; or

b.2- The joint annuitant may elect to receive a monthly benefit calculated as if the member had terminated and retired as of his or her date of death (i.e., with benefits payable effective the first of the month following the member's death) and paid in accordance with Option 3 of paragraph 60S-4.010(1)(c), F.A.C.; or

c.3- The joint annuitant may elect to receive a deferred monthly benefit calculated on the age the member would have attained at the date the benefit commences and the age of the joint annuitant on the date the benefit commences and paid in accordance with Option 3 in paragraph 60S-4.010(1)(c), F.A.C.

d.4- If the member's joint annuitant dies without having received in benefits an amount equal to the member's accumulated contributions, the Division shall pay to the joint annuitant's estate an amount equal to the excess of the member's accumulated contributions over the total benefits received by the joint annuitant.

(b) If the death of a State and County Officers' and Employees' Retirement System member occurs other than for a high hazard member killed in the line of duty, after he or she

has met the requirements for retirement under chapter 122, F.S., but prior to his or her effective date of retirement as provided in subsection 60S-4.0035(3), F.A.C., the surviving spouse shall be entitled to receive either the accumulated contributions of such officer or employee at the date of death or the monthly retirement benefit in accordance with Section 122.08(9), F.S.

1. The surviving spouse may make application to the Division for a refund of the accumulated contributions on Form FST-11g, Florida Retirement System Pension Plan Application of Beneficiary for Benefit Payment as adopted in subsection (1); or

2. The surviving spouse may make application to the Division for monthly retirement benefits on Form FST-11b, Florida Retirement System Pension Plan Application of Beneficiary for Monthly Retirement Benefits as adopted in Rule 60S-4.0035, F.A.C.

(c)1. If the death of a Teachers' Retirement System member occurs after having completed 10 years of creditable, but prior to his or her effective date of retirement as provided in subsection 60S-4.0035(3), F.A.C., the surviving spouse, regardless of the member's designated beneficiary, may elect to receive an option three monthly retirement benefit as provided in Section 238.08(3), F.S. If the designated beneficiary is the surviving spouse, then the surviving spouse shall have the option of receiving the accumulated contributions of such officer or employee at the date of death in lieu of the option three monthly benefit in accordance with 238.08(3), F.S.

a. The beneficiary may make application to the Division for a refund of the accumulated contributions on Form FST-11g, Florida Retirement System Pension Plan Application of Beneficiary for Benefit Payment as adopted in subsection (1);

b. The surviving spouse may make application for make application to the Division for monthly retirement benefits on Form FST-11b, Florida Retirement System Pension Plan Application of Beneficiary for Monthly Retirement Benefits as adopted in Rule 60S-4.0035, F.A.C.

2. In addition, survivor benefits may be payable to the beneficiaries of a deceased member as provided in Section 238.07(18), F.S., and such beneficiaries shall make application to the Division for these benefits on as provided in subparagraph 60S-4.008(1)(c)2., F.A.C.

(3) If the death of an FRS Pension Plan a member occurs, other than in-line-of-duty, on or after his or her effective date of retirement, as provided in subsection 60S-4.0035(3), F.A.C., but prior to a benefit payment being cashed or deposited, the following shall apply:

(a) If the member's designated beneficiary is not his or her spouse or other dependent who qualifies as a joint annuitant, any benefits payable shall be paid in accordance with the

option selected by the member; or if the member had not yet selected an option, benefits shall be paid as provided in subparagraph 60S-4.010(6)(c)1., F.A.C.

(b) No change.

(4) If an FRS Pension Plan a member is killed in the line of duty the following shall apply:

(a) through (b) No change.

(c) If the member had any children under 18 years of age at the time of his or her death, the surviving spouse shall not be permitted to receive a refund of the member's contributions in lieu of the benefits provided in paragraph 60S-4.008(4)(a), F.A.C.

(d) through (f) No change.

(5) Upon the death of a retired FRS member, joint annuitant, or beneficiary who is receiving monthly benefits, the benefits will be paid as follows:

(a) The monthly benefit shall be paid through the last day of the month of death and shall terminate, or be adjusted, if applicable, as of such date in accordance with the optional form of retirement benefit selected by the member at his or her date of retirement.

(b) through (c) No change.

(d) If the deceased member's joint annuitant dies without having received in benefits all remaining accumulated contributions made by the member and not received by the member before his or her death, the Division shall pay to the deceased joint annuitant's estate an amount equal to the excess of the member's accumulated contributions over the total benefits received by the member and/or the joint annuitant.

(e) Deductions from monthly benefits for payments to an alternate payee for Qualified Domestic Relations Orders (QDRO) or Income Deduction Orders (IDO) in the month of death shall be paid to the alternate payee. Deductions from monthly benefits for Internal Revenue Service (IRS) levies in the month of death shall be paid to the IRS. Any overpayment (received by the IRS or an alternate payee) in months after the month of the member's death shall be collected by the Division for repayment to the Florida Retirement System Trust Fund.

(6) If the designated beneficiary of a retirement account under the Florida Retirement System Pension Plan wishes to refuse his or her interest in such account, he or she shall disclaim such interest as provided in Chapter 739 Section 689.21, F.S., as follows:

(a) If there is no designated beneficiary or if all designated beneficiaries are deceased or have disclaimed their interest in the account, the beneficiaries shall be determined as provided in subsection 60S-4.011(2), F.A.C. When a beneficiary disclaims his or her interest in an account, he or she shall be considered to have predeceased the member. The next beneficiary designated by the member or as stated in subsection 60S-4.011(2), F.A.C., as applicable, may then

accept or disclaim any interest to which he or she is entitled. A beneficiary cannot disclaim in favor of a particular individual who is not the next designated beneficiary.

(b) Any such beneficiary may disclaim his or her interest in the retirement account of a nonretired member as provided in subsection 60S-4.008(1) and (2), F.A.C., or of a member retired under option 1 or option 2 as provided in subsection 60S-4.009(2) or paragraph 60S-4.010(1)(b), F.A.C., respectively.

(c) Such beneficiary may disclaim his or her interest in such member's retirement account whether or not the beneficiary is entitled to any monetary benefit from the account (refund or monthly benefit).

(d) If joint beneficiaries are named and only one qualifies as joint annuitant, the nondependent beneficiary may disclaim his or her interest, allowing the remaining joint annuitant to receive the full benefit payable.

(e) Disclaimers must be filed within 24 months after the event that created the interest, that is, the death of the member or annuitant. Such disclaimer must be submitted to the Division on Form DIS-1 (Rev. 03/07), Florida Retirement System Pension Plan Disclaimer of Benefits, if the disclaimer is by a surviving beneficiary; or on Form DIS-2 (Rev. 03/07), Florida Retirement System Pension Plan Disclaimer of Benefits, if the disclaimer is by a surviving child; or on Form DIS-3 (Rev. 03/07), Florida Retirement System Pension Plan Disclaimer of Benefits, if the disclaimer is by a surviving beneficiary and child. All such disclaimer forms are herein adopted by reference.

(7) For the purpose of determining the eligibility of a joint annuitant under paragraphs (2)(b) and (3)(b), for whom financial dependency is required as provided in paragraphs 60S-6.001(36)(34)(b) and (c), F.A.C., the member must have provided at least one-half of the joint annuitant's total support for the 12 months immediately preceding the member's death. This determination shall be made by first calculating the joint annuitant's total support for the period from all sources, as defined in subsection 60S-6.001(66)(61), F.A.C.; and then determining the amount of such support provided by the member. The member's portion of such support must equal at least one-half of the total amount.

(8) Death shall be presumed to be in the line of duty for the following FRS members that satisfy the requirements of Section 112.18 or 112.181 112.081, F.S., unless the contrary is shown by competent evidence:

(a) through (d) No change.

Rulemaking Specific Authority 121.031 FS. Law Implemented 61.1301, 112.18, 112.181, 121.021(14), 121.052(5), 121.055, 121.091(7) FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 7-21-75, 8-26-81, Formerly 22B-4.08, Amended 2-6-84, 1-12-87, 2-7-89, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-4.008, Amended 3-18-93, 1-25-94, 8-4-94, 12-12-96, 5-10-99, 8-13-03, _____.

60S-4.009 Benefits Payable After Termination.

(1) An FRS Pension member whose employment is terminated for any reason other than death or retirement shall be eligible for benefits upon proper application to the Division, subject to the following provisions:

(a) If he or she was not vested at the time of his or her termination he or she shall be entitled to a refund of his or her accumulated contributions; or

(b) If he or she was vested at the time of his or her termination he or she may elect to receive:

1. A refund of his or her accumulated contributions; or

2. A deferred monthly benefit which shall commence on his or her normal or early retirement date based on his or her average final compensation and creditable service as of his or her date of termination and computed in accordance with Rule 60S-4.004, 60S-4.005, or 60S-4.006, F.A.C., and shall receive benefits in accordance with Rule 60S-4.010, F.A.C.

(2) If a retired FRS Pension Plan member has elected to receive the retirement benefit payable to him or her under Option 1 and dies without having received in benefit payments an amount equal to his or her accumulated contributions, his or her designated beneficiary shall be entitled to an amount equal to the excess, if any, of the member's accumulated contributions over the total benefit payments made to the member prior to his or her date of death.

(3) In order to receive a refund of contributions under the Florida Retirement System, an FRS a member must terminate all employment relationships as provided in the definition of termination in Rule 60S-6.001, F.A.C., and submit a request for refund on (Form FRS-M81 (Rev. 07/01), Florida Retirement System Pension Plan Request for Refund, herein adopted by reference,) to the Administrator through his or her employer, containing a certification by his or her employer of his or her termination of employment. By obtaining a refund of contributions a member waives all rights under the Florida Retirement System to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit in accordance with Rule 60S-2.004, F.A.C.

(4) A State and County Officers' and Employees' Retirement System member whose employment is terminated for any reason other than death or retirement shall be eligible for benefits in accordance with Chapter 122, F.S., upon proper application to the Division.

(5) A Teachers' Retirement System member whose employment is terminated for any reason other than death or retirement shall be eligible for benefits in accordance with Chapter 238, F.S., upon proper application to the Division.

Rulemaking Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.021, 121.052(5)(c), 121.055, 121.091 FS. History—New 1-1-72, Amended 10-10-72, 12-31-74, 1-16-77, 8-26-81, Formerly 22B-4.09, Amended 1-12-87, 2-7-89, 11-14-91, Formerly 22B-4.009, Amended 8-4-94, 2-24-99.

60S-4.010 Retirement Benefit Payment Options.

(1) Prior to the receipt of his or her first monthly benefit payment, an FRS Pension Plan member who is eligible for a retirement benefit computed in accordance with Rule 60S-4.004, 60S-4.005, or 60S-4.006, F.A.C., shall select one of the four optional forms of payment of such benefits, as provided in paragraphs (a), (b), (c), or (d), on Form FRS-110 (Rev 01/10), "Florida Retirement System Pension Plan Option Selection for FRS Members", herein adopted by reference, which also requires such member to attest to his or her marital status on Form SA-1 (Rev. 01/10), Florida Retirement System Spousal Acknowledgment Form, herein adopted by reference, the appropriate retirement application as required in subsection 60S-4.0035(1), F.A.C., ~~or the Option Selection for FRS Members~~. A married member who selects option 1 under paragraph (a) or option 2 under paragraph (b) shall notify his or her spouse of such option selection, and the spouse shall acknowledge any such option selection in accordance with subsection 60S-4.010(9), F.A.C. The four options are as follows:

(a) Option 1. The maximum retirement benefit payable to the member during his or her lifetime.

(b) Option 2. A retirement benefit payable during his or her lifetime and, in the event of his or her death within a period of 10 years after his or her retirement, the same monthly amount to be payable to his or her beneficiary for the balance of such 10-year period.

(c) Option 3. A retirement benefit which shall be payable during the joint lifetime of both the member and his or her joint annuitant and which shall continue after the death of either during the lifetime of the survivor in the same amount, except as provided in paragraph 60S-4.010(1)(e), F.A.C.

(d) Option 4. A retirement benefit payable during the joint lifetime of the member and his or her joint annuitant, and which shall continue after the death of either during the lifetime of the survivor in an amount equal to 66 2/3 percent of the amount which was payable during the joint lifetime of the member and his or her joint annuitant, except as provided in paragraph 60S-4.010(1)(e), F.A.C.

(e) A joint annuitant, as defined in paragraph 60S-6.001(36)(34)(b), F.A.C., who is under age 25 or disabled will receive, upon the member's death, the amount of the option 1 benefit determined under paragraph 60S-4.010(1)(a), F.A.C., only until such joint annuitant reaches age 25 unless he or she is disabled, in which case, the option 1 benefit amount will continue for the duration of the disability. The following shall apply to the payment of benefits under this paragraph:

1. A person designated as a joint annuitant who is over age 25 shall qualify as a disabled joint annuitant provided:

a. The person is totally and permanently disabled from performing gainful employment by reason of a medically determinable physical or mental impairment, and

b. The Division receives two Physician's Reports, ~~(Form SB-13b (Rev. 03/01), Florida Retirement System Pension Plan Physician's Report, herein adopted by reference FR-13b, adopted in Rule 60S-9.001, F.A.C., completed by two Florida licensed physicians attesting to the total and permanent disability of the person, and any other evidence of disability requested by the Administrator which may include reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment.~~

2. Should the Administrator determine that such person has failed to demonstrate total and permanent disability, as provided in subparagraph 1. the following procedure shall be followed:

a. The person shall be notified by certified mail with return receipt requested. The notice shall include a summary of the factual, legal and policy grounds for the Administrator's intended decision.

b. When a person receives notice that the Administrator intends to deny his or her application, he or she shall have 21 calendar days to present written evidence to the Administrator in opposition to the intended action or written objections challenging the grounds upon which the Administrator has based his or her intended decision.

c. If the Administrator overrules the objections of the person, he or she shall provide a written explanation to the person by certified mail with return receipt requested, giving the reasons for his or her decision and advising the person of his or her right of appeal under the law.

d. If the person does not accept the Administrator's final decision on the merits, the person may request in writing an administrative hearing on his or her disability claim by filing within 21 calendar days from the date the annuitant receives notice of the Administrator's final decision, a petition in accordance with Rule 28-106.201, F.A.C. 60S-10.003, F.A.C.

3. The Division of Retirement may conduct periodic reexaminations of joint annuitants who have been granted disability under this paragraph to determine whether or not such joint annuitants continue to meet the disability criteria applicable in their case. The following procedures shall govern such disability reexamination cases:

a. The Division will mail the joint annuitant forms FR-13e, "Florida Retirement System Retiree's Report of Continuing Disability" and FR-13f, "Florida Retirement System ~~FRS~~ Physician's Report of Reexamination" adopted in Rule 60S-4.007 60S-9.001, F.A.C. Such forms should be completed by the joint annuitant and his or her physician and returned to the Disability Determination Section within 60 days, unless an extension of time is requested and approved by the Division.

b. through c. No change.

d. Based on the information obtained pursuant to the provisions of subparagraphs a. and b., if the Administrator finds the joint annuitant is no longer disabled under the criteria

used to determine his or her original disability, the joint annuitant will be notified by certified mail of the initial findings and conclusions and that the Administrator intends to discontinue his or her benefit. The notice shall include a summary of the factual, legal and policy grounds for the intended decision.

e. When a joint annuitant receives notice that the Administrator intends to discontinue his or her benefits, he or she shall have 21 calendar days to present written evidence in opposition to the intended action or written objections challenging the grounds upon which the Administrator has based his or her intended decision. The joint annuitant may submit additional evidence or a written statement for reconsideration of the Division's denial of benefits and his or her benefit will continue subject to reconsideration.

f. After reconsideration of the joint annuitant's file, including any additional evidence or written statement submitted by the joint annuitant or obtained by the Division, the Administrator shall provide a written final decision on the merits to the joint annuitant by certified mail giving the reasons for the decision and will notify the joint annuitant that his or her benefits will continue if he or she is found to be disabled or will terminate effective the first day of the following month if he or she is found to be not disabled.

g. If the joint annuitant does not accept the Administrator's final decision on the merits, he or she may request in writing an administrative hearing on his or her disability claim by filing within 21 calendar days from the date he or she receives notice of the Administrator's final decision, a petition in accordance with Rule 28-106.201, F.A.C. 60S-10.003, F.A.C.

4. A joint annuitant who is determined to be disabled under this paragraph, and subsequently recovers, shall notify the Division immediately to have his or her benefits discontinued.

(2) through (3) No change.

(4) The benefits payable under Options 3 or 4 shall be calculated as follows:

(a) Determine the maximum retirement benefit the member is eligible for under Option 1.

(b) Using the member's age and the joint annuitant's age at date of retirement, select the actuarial factor listed for the option selected by the member. The following exception exists, however, for any member who continues employment with a covered employer after becoming eligible to retire with an Option 1 benefit equal to 100% of his or her A. F. C. When the member retires, the actuarial factor shall be determined by the age of the member and that of his or her joint annuitant at the time the member became eligible for the benefit equal to 100% of his or her A. F. C.

(c) Multiply the maximum retirement benefit obtained in paragraph (a) above by the actuarial factor obtained in paragraph (b) above to determine the benefit which the member shall receive.

(d) The benefit of a member who chooses Option 3 and designates more than one joint annuitant, shall be the total of the portions of the benefit designated for each such joint annuitant, calculated based on the age of the member and the age of each joint annuitant for each separate percentage of the benefit.

(5) A member shall select an option for receiving benefits and may change such option selection until the time a benefit payment has been cashed or deposited. Thereafter, the member shall not be permitted to change the option he or she selected and, upon the member's death, benefits shall be paid in accordance with such option selected.

(6) The following shall apply to the option selection of any member who dies prior to the time a benefit payment has been cashed or deposited:

(a) If the member should die prior to his or her effective date of retirement, as described in Rule 60S-4.0035, F.A.C., his or her employment will be considered to have been terminated by death (even if the death occurred after his or her last day of employment), his or her option selection shall be null and void, and benefits shall be payable in accordance with the provisions of Rule 60S-4.008, F.A.C. This paragraph shall not be construed to allow the benefit of a member who dies after he or she has terminated employment to be calculated according to the provisions of paragraph 60S-4.005(2)(c), F.A.C.

(b) If the member should die after his or her effective date of retirement, his or her employment will be considered to have been terminated by retirement, and benefits shall be payable in accordance with the retirement option selected as provided by this section, except as follows:

1. When the designated beneficiary qualifies as a joint annuitant benefits shall be payable in accordance with the provisions of Rule 60S-4.008, F.A.C.; or,

2. When the spouse is the designated beneficiary and the member had selected option 3, the spouse may elect to receive such option 3 benefit as of the member's effective date of retirement in lieu of the benefits provided in Rule 60S-4.008, F.A.C.

(c) If the member should die after his or her effective date of retirement and without having selected an option, benefits shall be payable as follows:

1. If the member's designated beneficiary does not qualify as a joint annuitant, benefits shall be paid under option 1, with any benefits due from his or her effective date of retirement through the month of death payable to the member's estate.

2. If the member's designated beneficiary qualifies as a joint annuitant, his or her previously established effective date of retirement shall be null and void and benefits shall be paid in accordance with the provisions of Rule 60S-4.008, F.A.C.

(7) If the member retires due to disability and dies after his or her effective date of retirement and prior to cashing or depositing a retirement benefit payment, benefits will be payable in accordance with the provisions of subsection 60S-4.010(6), F.A.C., except as follows:

(a) If the member had satisfied the service requirements for vesting and his or her designated beneficiary qualifies as a joint annuitant, the beneficiary may select a refund of member contributions, an Option 3 benefit under disability retirement as of the member's effective date of retirement, or an Option 3 benefit under service retirement as provided in Rule 60S-4.008(3), F.A.C., with the member's previously established effective date of retirement deemed null and void.

(b) If the member had not satisfied the service requirements for vesting, was approved for in-line-of-duty disability and his or her designated beneficiary was qualified as a joint annuitant, the beneficiary may select a refund of member contributions or an Option 3 benefit under disability retirement as of the member's effective date of retirement.

(8) A member who selects Option 3 or 4 shall designate a joint annuitant to receive the benefits which continue to be payable upon his or her death. If, after benefits have commenced under Option 3 or 4, the retired member desires to change his or her designation of a joint annuitant, he or she may do so as follows:

(a) From October 1, 1979 through June 30, 1984, a retired member may change his or her designated joint annuitant only if his or her first designated joint annuitant is alive and can show evidence of good health as shall be substantiated by a statement from a Florida licensed physician. A member desiring to change his or her designation shall file such change with the Division on Form JA-1 (Rev. 12/02, "Florida Retirement System Pension Plan a-notarized Change of Joint Annuitant (Retired members only)" form (JA-1), herein adopted by reference. as adopted in Rule 60S-9.001, F.A.C. Upon receipt of the completed form, the Division shall adjust the member's monthly benefit in accordance with subparagraph 60S-4.010(8)(c)1., F.A.C. The consent of a retired member's first designated joint annuitant to any such change shall not be required. The effective date of the change will be the first day of the month following receipt of the JA-1 "Change of Joint Annuitant" form by the Division.

(b) Effective July 1, 1984, a retired member may change his or her designated joint annuitant twice during his or her retired life. A retired member desiring to change his or her designation shall file with the Division a Form JA-1, "Florida Retirement System Pension Plan Change of Joint Annuitant (Retired members only)" form (JA-1) and notify, in writing, his or her former joint annuitant, if living, of such change. Upon receipt of the completed form, the Division shall adjust the retired member's monthly benefit in accordance with paragraph 60S-4.010(8)(c), F.A.C. The consent of a retired member's first designated joint annuitant to any such change

shall not be required. The effective date of the change will be the first day of the month following receipt of the JA-1 "Change of Joint Annuitant" form by the Division, provided the member and the new joint annuitant are alive on that date. If the member and the new joint annuitant do not live until the effective date of the change, the change of joint annuitant will not take effect.

(c) The monthly benefit of a member who elects to change his or her designated joint annuitant shall be adjusted by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's monthly benefit at the time of the joint annuitant change. The computation of such adjustment shall depend upon the status of the member's current joint annuitant at the time of the joint annuitant change, and shall be calculated as follows:

1. through 2. No change.

(d) In the event of the dissolution of marriage of a retired member and his or her designated joint annuitant, such member may, on or after June 17, 1998, elect to nullify the joint annuitant designation of the former spouse, unless there is an existing qualified domestic relations order preventing such action. The member must file with the Division a ~~written~~, notarized statement of nullification on Form JA-NUL (Rev. 07/99), Florida Retirement System Pension Plan Joint Annuitant Nullification Form, herein adopted by reference and a copy of the divorce decree. The nullification shall be effective on the first day of the next month following receipt by the Division of the properly completed form and a copy of the divorce decree. Benefits due the member shall be adjusted, if appropriate, and shall be paid as if the former spouse predeceased the member. A member who makes such an election may not reverse the nullification. Such nullification shall not count as a change of joint annuitant unless the member chooses to designate a new joint annuitant in accordance with paragraph (b) and subparagraph (c)2., in which case the member's monthly benefit will be adjusted as though the member's nullified joint annuitant is not living.

(9) A married member who selects option 1 as provided in paragraph 60S-4.010(1)(a), F.A.C., or option 2 as provided in paragraph 60S-4.010(1)(b), F.A.C., shall notify his or her spouse of such option selection, and the spouse shall acknowledge such option selection as follows:

(a) A member who selects option 1 or 2 shall be required to indicate if he or she is married or not married on ~~the appropriate application form as required in subsection 60S-4.010(1), F.A.C., or the Spousal Acknowledgment, Form SA-1 (Rev. 01/10), Florida Retirement System Spousal Acknowledgment Form, herein adopted by reference, FST-40e1, as adopted in Rule 60S-9.001, F.A.C.~~ If the member is married, his or her spouse shall complete the spousal acknowledgment section of sign such form acknowledging that the member has selected option 1 or 2.

(b) If the Division does not receive a completed spousal acknowledgment of option selection, the Division will advise the member in writing that his or her benefits will not commence until:

1. Such completed spousal acknowledgment of option selection is received by the Division; or
2. It is established in writing to the satisfaction of the Division that the spouse cannot be located; or
3. In the case of refusal by the spouse to sign the spousal acknowledgment of option selection, the Division shall notify the spouse member provides evidence that he has notified his spouse in writing of ~~the his~~ option selection. Such notification evidence shall constitute acknowledgment by the spouse of such selection.

(10) Prior to the receipt of his or her first monthly benefit payment, a State and County Officers' and Employees' Retirement System member who is eligible for a retirement benefit computed in accordance with Rule 60S-4.004, 60S-4.005 or 60S-4.006, F.A.C., shall select one of the four optional forms of payment of such benefits, as provided in Section 122.08, F.S., on Form FST-11o (Rev 07/06), Teacher's Retirement System and State and County Officers' and Employees' Retirement System Option Selection for Members, herein adopted by reference.

(11) Prior to the receipt of his or her first monthly benefit payment, a Teachers' Retirement System member who is eligible for a retirement benefit computed in accordance with Rule 60S-4.004, 60S-4.005, or 60S-4.006, F.A.C., shall select one of the four optional forms of payment of such benefits, as provided in section 238.08, F.S., on Form FST-11o, Option Selection for TRS and SCOERS Members, as adopted in subsection (10).

Rulemaking Specific Authority 121.031, 121.052(14), ~~121.31~~ FS. Law Implemented 121.021, 121.052, 121.055, 121.091(6), (11) FS. History--New 1-1-72, Amended 12-31-74, 7-1-79, 5-18-80, 8-26-81, 1-18-83, 11-6-84, 4-17-85, Formerly 22B-4.10, Amended 3-11-87, 9-5-90, 5-15-91, 9-8-92, Formerly 22B-4.010, Amended 3-12-96, 12-12-96, 2-24-99, 8-13-03, _____.

60S-4.011 Designation of Beneficiary.

- (1) through (2) No change.

(3) If a member has transferred from an existing system, any person whom the member had designated as his or her beneficiary under that existing system shall remain the member's designated beneficiary and shall receive the benefits, if any, which may be payable pursuant to these rules in the event of the member's death, unless the member changes his or her designation of beneficiary on the proper form provided by the Division.

(4) A member may designate a beneficiary or beneficiaries at any time prior to retirement, as follows:

- (a) A member may designate one or more beneficiaries, to receive benefits sequentially, or jointly.

(b) A member may designate as beneficiary any person, organization, trust, or his or her estate; or he or she may designate that benefits be paid according to law as provided in subsection 60S-4.011(2), F.A.C., and Section 121.091(8), F.S.

(c) Such beneficiary designation shall be made on the Form BEN-001 (Rev. 06/04), Florida Retirement System Pension Plan Beneficiary Designation Form Active Members Only, herein adopted by reference as adopted in Rule 60S-9.001, F.A.C.

(d) A member may change his or her designation of a beneficiary at any time prior to retirement on the Form BEN-001 FST-12.

(e) No change.

(5) Upon application for retirement, a member shall be required to complete a new designation of beneficiary on the appropriate application form as provided in subsection 60S-4.0035(1), F.A.C., as follows:

(a) A member who selects option 1 or 2, as provided in paragraphs 60S-4.010(1)(a) or (b), F.A.C., may:

1. Designate as beneficiary any person, organization, trust, or his or her estate; or designate that benefits be paid according to law as provided in subsection 60S-4.011(2), F.A.C., and Section 121.091(8), F.S.

2. Designate one or more beneficiaries to receive benefits jointly or sequentially.

3. Change his or her designation of beneficiary at any time on ~~the Beneficiary Designation For Retired Members, Form FST-12 (Rev. 12/02), Florida Retirement System Pension Plan Beneficiary Designation Form (Retired Members Only), herein adopted by reference as adopted in Rule 60S-9.001, F.A.C.~~

(b) through (c) No change.

(6) An active or retired member may designate a trust as beneficiary or may designate a beneficiary whose benefits are to be paid through a trust, subject to the following:

(a) If a member who dies prior to his or her effective date of retirement has designated a trust as his or her beneficiary, such trust shall be entitled only to a refund of the member's contributions as provided in subsection 60S-4.008(1) or (2)(a), F.A.C.

(b) If a member who dies prior to his or her effective date of retirement has designated a beneficiary to receive benefits through a trust, such beneficiary shall be entitled to the same benefits, in accordance with Rule 60S-4.008, F.A.C., as if the member had designated such beneficiary without specifying that benefits be paid through a trust.

(c) No change.

(d) When a member makes a beneficiary designation involving a trust, either upon application for retirement or after retirement, he or she shall file with the Division:

1. through 3. No change.

(e) through (f) No change.

~~Rulemaking Specific~~ Authority 121.031 FS. Law Implemented 121.021, 121.091(6), (8) FS. History—New 1-1-72, Amended 12-31-74, 1-19-82, 9-9-82, Formerly 22B-4.11, Amended 2-7-89, 9-5-90, 5-15-91, 11-14-91, 9-8-92, Formerly 22B-4.011, Amended 3-12-96, 2-24-99, 8-13-03, _____.

60S-4.012 Employment After Retirement.

(1) Any retired member of a state-administered retirement system of Florida except for a retiree under the disability retirement provisions of Section 121.091(4), F.S., may be employed by a private employer or a public employer who does not participate in the Florida Retirement System without affecting his or her retirement benefits.

(2) The following reemployment limitations shall apply to any retiree of a state-administered retirement system who is reemployed by a Florida Retirement System employer in either a regularly established position or a temporary position, during the first 12 calendar months of retirement. For service retirements without DROP participation this 12 calendar month reemployment limitation period shall commence the month of the retiree's after his effective date of retirement. For DROP participants such reemployment limitation period shall apply and commence in the calendar month following the participant's DROP termination date. Any person employed in violation of any of the limitations in this section, and any employing agency which knowingly employs or appoints such person without notifying the Division to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. ~~To avoid liability, Such such~~ employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system or may use the State Board of Administration Form CERT (Rev. 06/2011), Florida Retirement System (FRS) – Certification Form, created for such purpose and herein adopted by reference.

(a)1. For retirements without DROP participation effective before July 1, 2010 and for DROP termination dates before July 1, 2010, reemployment with an employer during the first calendar month of the 12 calendar month reemployment limitation period after his effective date of retirement shall result in cancellation of retirement; the member's retirement application shall be void and he or she shall be required to repay all retirement benefits received including any DROP accrual.

2. For retirements without DROP participation effective on or after July 1, 2010 and for DROP termination dates on or after July 1, 2010, reemployment with an employer during the first six calendar months of the 12 calendar month reemployment limitation period shall result in cancellation of retirement; the member's retirement application shall be void and he or she shall be required to repay all retirement benefits received including any DROP accrual.

~~(b)1. For retirements without DROP participation effective before July 1, 2010 and for DROP termination dates before July 1, 2010, reemployment with an employer during the second through twelfth calendar months of the reemployment limitation period after his effective date of retirement shall result in suspension of retirement benefits except as provided in subsection 60S-4.012(3), F.A.C. If the retiree is reemployed prior to expiration of the reemployment limitation period stated in subsection (2) above he shall:~~

~~2. For retirements without DROP participation effective on or after July 1, 2010 and for DROP termination dates on or after July 1, 2010, reemployment with an employer during the seventh through the twelfth calendars of the reemployment limitation period shall result in suspension of retirement benefits.~~

~~3. If a retiree is reemployed during the calendar months of the reemployment limitation period applicable to his or her effective retirement date or DROP termination date as provided in sub paragraphs 1. or 2., above, he or she shall:~~

~~a.1. Notify the Division in writing of such employment and have his or her benefits suspended effective the first day of the first month of reemployment which may be done utilizing Form FR-23 (Rev. 07/10), Florida Retirement System Pension Plan Notification of Reemployment for Suspension of Retirement Benefits, herein adopted by reference. This suspension shall remain in effect for the balance of the reemployment limitation period or for every month of the reemployment limitation period in which he or she is employed, and benefits that would have been paid during the period of suspension are forfeited;~~

~~b.2. Notify the employer in writing that he or she is receiving retirement benefits from a state-administered retirement system;~~

~~c.3. Upon expiration of the reemployment limitation period or upon termination of employment prior to expiration of the reemployment limitation period, notify the Division in writing that his or her reemployment limitation period has been completed or that he or she is no longer employed and desires to have his or her benefits reinstated which may be done utilizing Form FR-23a (Rev. 05/05), Florida Retirement System Pension Plan Application to Reactivate Retirement Benefits, herein adopted by reference. Upon verification by his or her employer, his or her retirement benefits will then be reinstated effective the first day of the month following termination of employment or expiration of the reemployment limitation period;~~

~~4. If he or she returns to work again during the reemployment limitation period, notify the Division to suspend his or her benefits again for any month in which he or she is employed.~~

(c) If he or she is reemployed by an employer and fails to have his or her retirement benefits suspended during the reemployment limitation period stated in subsection (2) above he or she shall:

1. Have his or her retirement benefits suspended;

2. Repay to the Division any retirement benefits received while reemployed during the reemployment limitation period. Such suspension shall continue until full repayment has been made for all retirement benefits received during the reemployment limitation period stated in subsection (2) above. Benefits suspended beyond the reemployment limitation period shall apply toward repayment of benefits received in violation of the reemployment limitation.

~~(3)(a) For retirements without DROP participation effective before July 1, 2010 and for DROP termination dates before July 1, 2010, after the first calendar month of the reemployment limitation period retirement, certain retirees may be reemployed for 780 hours during the reemployment limitation period of the second through the twelfth calendar months of the reemployment limitation period following the effective date of retirement as follows:~~

~~(a) Any retiree of the Florida Retirement System or the Teachers' Retirement System may be reemployed by a district school board or a participating charter school as a substitute or an hourly teacher on a noncontractual basis; or~~

~~(b) Any retiree of the Florida Retirement System may be reemployed by a district school board or a participating charter school as an education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis; or~~

~~1.(e) Such Any retiree of the Florida Retirement System or the Teachers' Retirement System may be reemployed by a community college board of trustees as an adjunct instructor (i.e., an instructor who is noncontractual and part-time. A part-time community college instructor is one who teaches less than 15 course hours per week, or if paid hourly, teaches less than 40 hours per week); or~~

~~2.(d) Such Any retiree of the Florida Retirement System or the Teachers' Retirement System may be reemployed by a community college board of trustees as a participant in a phased retirement program, within the State Community College System; or~~

~~3.(e) Such Any retiree of the Florida Retirement System or the Teachers' Retirement System may be reemployed as an adjunct faculty member as defined in paragraph 6C-5.910(4)(a) 6C-5.105(5)(e), F.A.C., or as a participant in a phased retirement program, within the State University System; or~~

~~(f) Any retiree of the Florida Retirement System or the Teachers' Retirement System may be reemployed as a noncontractual substitute teacher, substitute residential instructor, or substitute nurse for the Florida School for the Deaf and the Blind; or~~

~~(g)~~ Any retiree of the Florida Retirement System may be reemployed as a firefighter or paramedic.

~~4.(h)~~ Such retiree as described in subparagraphs ~~1.(a)~~ through ~~3.(g)~~ who is reemployed is subject to the following:

~~a.1-~~ He or she may concurrently receive retirement benefits and compensation for such employment for a total of 780 hours during the second through the twelfth calendar months of the reemployment limitation period stated in subsection 60S-4.012(2), F.A.C.;

~~b.2-~~ He or she shall notify the employer in writing that he or she is receiving retirement benefits from the Florida Retirement System or the Teachers' Retirement System;

~~c.3-~~ If he or she is reemployed for more than 780 hours during the reemployment limitation period he or she shall:

~~I.a-~~ Notify the employer and the Division in writing of the date on which he or she will complete 780 hours of employment, at which time the Division shall suspend his or her retirement benefits effective the first day of the month following the month in which he or she completes 780 hours of employment. This suspension shall remain in effect for every month in which he or she is employed during the remainder of the reemployment limitation period, and benefits that would have been paid during the period of suspension are forfeited;

~~II.b-~~ Repay to the Division any retirement benefits received during the reemployment limitation period while reemployed beyond the month in which he or she completes 780 hours of employment. Benefits suspended beyond the end of the reemployment limitation period shall apply toward repayment of benefits received during the reemployment limitation period while reemployed beyond the month in which he or she completes 780 hours of employment;

~~III.e-~~ Upon expiration of the reemployment limitation period or upon termination of employment prior to expiration of the reemployment limitation period, notify the Division in writing that his or her reemployment limitation period has expired or that he or she is no longer employed and desires to have his or her benefits reinstated. Upon verification by his or her employer, his or her retirement benefits will then be reinstated effective the first day of the month following termination of employment or expiration of the reemployment limitation period;

~~IV.d-~~ If he or she returns to work again during the reemployment limitation period, notify the Division to suspend his or her benefits again for any month in which he or she is employed.

(b) For retirements without DROP participation effective before July 1, 2010 and for DROP termination dates before July 1, 2010, after the first calendar month of the reemployment limitation period, certain retirees may be reemployed during the second through the twelfth months of the reemployment limitation period as follows:

1. Such retiree may be reemployed by a district school board as a classroom teacher (as defined in Section 1012.01(2)(a), F.S.) on an annual contractual basis, non-contractual substitute or hourly teacher, education paraprofessional, transportation assistants, bus drivers, or food service workers; or

2. Such retiree may be reemployed by the Florida School for the Deaf and the Blind as a substitute teacher, substitute residential instructor, or substitute nurse on a non-contractual basis; or

3. Such retiree may be reemployed by participating charter schools as a classroom teacher (as defined in Section 1012.01(2)(a), F.S.) on an annual contractual basis, or as substitute or hourly teacher on a non-contractual basis.

4. Such retiree may be reemployed by Developmental Research school on an annual contractual basis as a classroom teacher as defined in Section 1012.01(2)(a), F.S., or as substitute or hourly teacher or education paraprofessional on a non-contractual basis.

5. Such retiree who is reemployed as described in subparagraphs 1., through 4., is subject to the following:

a. He or she may concurrently receive retirement benefits and compensation for such employment during the second through the twelfth calendar months of the reemployment limitation period stated in subsection 60S-4.012(2), F.A.C.;

b. He or she shall notify the employer in writing that he or she is receiving retirement benefits from the Florida Retirement System or the Teachers' Retirement System;

(c) For retirements without DROP participation effective on or after July 1, 2010 and for DROP termination dates on or after July 1, 2010, there are no reemployment limitation exceptions during the seventh through the twelfth calendar month of the reemployment limitation period.

(4) Any retired member who is reemployed under the provisions of subsection 60S-4.012(2) or (3), F.A.C., shall not have his or her average final compensation or years of creditable service adjusted because of such employment.

(5) Any employer who employs a retired member of a state administered retirement system, in a regularly established position, shall pay the required contributions in accordance with subsections 60S-3.003(6) and (7), F.A.C.:-

(a) Those retirees who are initially reemployed in a regularly established position prior to July 1, 2010 shall have renewed membership in the Florida Retirement System. Submit a Personal History Record, Form FRS M10, for each employee, and

(b) Those retirees who are initially reemployed in a regularly established position on or after July 1, 2010 shall not be eligible for renewed membership in the Florida Retirement System. Pay the required contributions in accordance with subsection 60S-3.003(5), F.A.C.

(6)(a)1. Any person previously retired from a state-administered retirement system who holds an elective public office or an appointment to an elective public office on or before June 30, 2010, shall have renewed membership in the Florida Retirement System as provided by Rule 60S-1.0045, F.A.C., for an office not covered by the Elected Officers' Class, or as provided by subsection 60S-1.0055(4), F.A.C., for an office that is covered by the Elected Officers' Class. Such Elected Officers shall continue to receive retirement benefits as well as compensation for the elected office without regard to the limitations provided in this section.

2. Any person previously retired from a state-administered retirement system who is initially reemployed as a result of holding an elective public office or an appointment to an elective public office on or after July 1, 2010, shall not be eligible for renewed membership in the Florida Retirement System.

(b) Any retired member who was elected to an office prior to July 1, 1990, suspended his or her retirement benefit, and reinstated his or her Florida Retirement System membership, shall, upon subsequent retirement, have his or her retirement benefits recomputed using such period of creditable reemployment as provided in subsection 60S-2.008(1), F.A.C. All required contributions shall be made by the employer and/or the member for the entire period of reemployment, as required in Rule 60S-3.009, F.A.C.

(c) Any elected officer participating in the Deferred Retirement Optional Program as a member of the Elected Officers' Class prior to July 1, 2002 may continue in elected office upon reaching the Deferred Retirement Optional Program end date and shall become a renewed member of the Elected Officers' Class the first of the month following Deferred Retirement Optional Program termination.

(d)1. Effective July 1, 2002 through June 30, 2010, any ~~Any~~ elected officer participating in the Deferred Retirement Optional Program as a member of the Elected Officers' Class ~~on or after July 1, 2002~~ may continue in elected office upon reaching the Deferred Retirement Optional Program end date and shall not be eligible to become a renewed member of the Florida Retirement System for as long as such officer holds an office covered by the Elected Officers' Class under the Florida Retirement System. Any such elected officer who chooses to continue in elected office beyond his or her DROP end date would be subject to the termination requirements and reemployment limitations in effect on the date when he or she no longer holds elective office.

2. Effective on and after July 1, 2010, any elected officer participating in the Deferred Retirement Optional Program regardless of membership class on or after July 1, 2010 is subject to termination as defined in Section 121.021, F.S. and reemployment limitations as provided in Section 121.091(9), upon completion of his or her DROP participation period. However, such elected officer may defer termination and

reemployment limitations until the end of his or her current term of office or, if the officer is consecutively elected or reelected to an elective office eligible for coverage under the Florida Retirement System, until he or she no longer holds an elective office. Such elected officer who chooses to defer termination and reemployment limitations beyond his or her DROP end date would be subject to the termination and reemployment limitations in effect on the date he or she terminates elective office.

3. Any elected officer as provided in subparagraph (d)1. above, who chooses to continue in elected office beyond his or her DROP end date or any elected officer as provided in subparagraph (d)2. above, who chooses to defer termination and reemployment limitations beyond his or her DROP end date the following applies:

a. The officer shall not be eligible to receive his or her accumulated DROP account and commence receiving monthly retirement benefits until termination of elective office. Monthly retirement benefits shall be paid on a prospective basis only.

b. The officer shall be subject to the termination requirement and reemployment limitations in effect on the date he or she terminates elective office.

c. The officer's DROP account may not accrue additional monthly benefits beyond the DROP end date.

d. If the officer's DROP participation began prior to July 1, 2010, the officer's DROP account shall continue to earn interest beyond the DROP end date as provided in Section 121.090(13), F.S.

e. If the officer's DROP participation began on or after July 1, 2010, the officer's DROP account shall not earn interest beyond the DROP end date.

(7)(a) A retired Justice or Judge whose retirement without DROP participation is effective prior to July 1, 2010 or whose DROP termination date is prior to July 1, 2010 who after meeting termination as defined in Section 121.021, F.S., is assigned to active judicial service pursuant to Article V of the State Constitution shall continue to receive retirement benefits without being affected by the restrictions of this section but shall not be eligible for renewed membership in the Florida Retirement System.

(b) A retired Justice or Judge whose retirement without DROP participation is effective on or after July 1, 2010 or whose DROP termination date is on or after July 1, 2010 who after meeting termination as defined in Section 121.021, F.S., is assigned to active judicial service pursuant to Article V of the State Constitution shall be subject to reemployment limitations as provided in Section 121.091(9), F.S., and shall not be eligible for renewed membership in the Florida Retirement System.

(8) Any person who holds an elective public office and is concurrently employed in nonelected covered employment may elect to retire effective on or before June 1, 2010, from his

or her nonelected employment while continuing employment in his or her elective public office. Such person shall be required to terminate his or her nonelected covered employment as provided in Rule 60S-6.001, F.A.C. (termination). Any person exercising this election shall receive his or her retirement benefits in addition to the compensation of the elective office without regard to the limitations otherwise provided in paragraph 60S-4.012(2)(b), F.A.C.; and,

(a) Effective effective July 1, 1990, any such person whose elective office is covered by the Elected Officers' Class whose effective retirement date for his or her nonelected covered employment is on or before June 1, 2010, shall be reenrolled in such class as provided in subsection 60S-1.0055(4), F.A.C.

(b) Effective July 1, 1991 and through June 30, 2010, any such person whose elective office is covered by the Regular Class shall be reenrolled in such class as provided in subsection 60S-1.0045, F.A.C.

(9) No change.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.021, 121.053, 121.091(9), 121.046(4), 238.181 FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 7-1-79, 8-26-81, 9-9-82, 10-11-82, 11-6-84, 4-17-85, 9-24-85, Formerly 22B-4.12, Amended 3-11-87, 2-7-89, 9-5-90, 11-14-91, 9-8-92, Formerly 22B-4.012, Amended 3-18-93, 4-5-95, 12-12-96, 2-24-99, 8-13-03,_____.

60S-4.015 Deductions from Monthly Benefits.

Subject to approval by the Division, a payee (retiree or beneficiary) receiving retirement benefits under the Florida Retirement System, State and County Officers' and Employees' Retirement System and the Teachers' Retirement System may have certain payments deducted from his or her monthly benefit as follows:

(1) Federal income tax shall be withheld in accordance with federal law unless the payee elects otherwise on Form W-4P.

(2) Premiums for life and health-related insurance policies from approved companies may be deducted, provided:

(a) New deductions, or a restart of previously closed deductions, Deductions are authorized in writing by the payee and by the insurance company;

(b) A minimum of 50 25 payees have authorized deductions and are covered by each such company participating in the payroll deduction program;

(c) through (g) No change.

(3) Life insurance premiums for the State Group Life Insurance Plan may be deducted, provided deductions are authorized in writing by the payee and the Division of State Group Employees² Insurance.

(4) Repayment of overpayments from the Florida Retirement System Trust Fund or the State Employees' Group Health Insurance Trust Fund may be deducted upon notification to the payee by the Division of Retirement or the Division of State Group Employees² Insurance.

(5) through (6) No change.

Rulemaking Specific Authority 121.031 FS. Law Implemented 61.1301, 121.031, 222.21 FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Formerly 22B-4.15, Amended 5-15-91, Formerly 22B-4.015, Amended 8-4-94, 8-13-03,_____.

60S-4.021 Forfeiture of Benefits.

(1) Any member who has been found guilty by a verdict of a jury or by the court trying the case without a jury, or who has entered a plea of guilty or a plea of nolo contendere to committing, aiding, or abetting any embezzlement or theft from his or her employer, bribery in connection with his or her employment, or any other felony specified in Chapter 838, F.S., except for commercial bribery as provided in Sections 838.15 and 838.16, F.S., committed prior to retirement; or any member whose employment is terminated by reason of his or her admitted commission, aiding or abetting of any of the offenses above, or any elected official who is convicted by the Senate of an impeachable offense, shall forfeit all rights and benefits under the Florida Retirement System except the return of his or her accumulated contributions. If such member is subsequently reemployed, he or she shall be eligible for benefits based on creditable service earned subsequent to his or her reemployment, but shall not be eligible to claim as creditable service any period prior to his or her reemployment for which he or she was required to forfeit all rights and benefits except his or her contributions.

(2) Any member who, prior to retirement, is adjudged by a court of competent jurisdiction to have violated any state law against strikes by public employees or who has been found guilty by such courts of violating any state law prohibiting strikes by public employees shall forfeit all rights and benefits under this chapter except the return of his or her accumulated contributions. If such a member is subsequently reemployed he or she shall be eligible for benefits based on creditable service earned subsequent to his or her reemployment, but shall not be eligible to claim as creditable service any period prior to his or her reemployment for which he or she received a refund of contributions.

(3) Any member who, prior to retirement, is convicted of a felony committed on or after October 1, 2008, as defined in Section 800.04, F.S., against a victim younger than 16 years of age, or defined in Chapter 794, F.S., against a victim, younger than 18 years of age, through the use of power, rights, privileges, duties, or position of the member's public office or employment position shall forfeit all rights and benefits under this chapter except the return of his or her accumulated contributions. If such member is subsequently reemployed, he or she shall be eligible for benefits based on creditable service

earned subsequent to his or her reemployment, but shall not be eligible to claim as creditable service any period prior to his or her reemployment for which he or she was required to forfeit all rights and benefits except his or her contributions.

~~(4)~~(3) The following shall apply concerning forfeiture of benefits for members:

(a) A member who has had an information or an indictment filed against him or her in a circuit court relating to a crime that may result in the forfeiture of benefits shall not begin receiving retirement benefits until all criminal charges have been determined by the circuit court and a determination made by the Administrator concerning forfeiture of benefits; except that such a member who has employee contributions on deposit may, upon the approval of the Administrator, receive benefits equal to the total of such contributions, at which time benefits will be suspended until all criminal charges have been determined by the circuit court and a determination made by the Administrator concerning forfeiture of benefits.

(b) A member who has been convicted of a felony that would result in forfeiture of retirement benefits upon his or her retirement, and who subsequently receives a full pardon, is entitled to receive retirement benefits for which he or she is eligible as though the offense had never been committed, provided such member makes application for retirement benefits in accordance with Rule 60S-4.0035, F.A.C. The restoration of civil rights or the sealing of criminal records of such a member does not entitle such member to receive retirement benefits.

~~(5)~~(4) The following shall apply concerning forfeiture of benefits for retired members:

(a) A retired member who has had an information or an indictment filed against him or her in a circuit court relating to a crime committed prior to his or her retirement that may result in the forfeiture of benefits shall have his or her retirement benefits suspended until all criminal charges have been determined by the circuit court and a determination made by the Administrator concerning forfeiture of benefits; except that such a retired member who has employee contributions on deposit may, upon the approval of the Administrator, receive benefits equal to the total of such contributions, at which time benefits will be suspended until all criminal charges have been determined by the circuit court and a determination made by the Administrator concerning forfeiture of benefits.

(b) A retired member who has forfeited his or her retirement benefits as provided in subsections 60S-4.021(1) and (2), F.A.C., and who subsequently receives a full pardon is entitled to have his or her retirement benefits reinstated prospectively. The restoration of civil rights or the sealing of criminal records of such a member does not entitle such member to the resumption of forfeited retirement benefits.

~~(6)~~(5) Any person who is the designated beneficiary of a member, and who by a verdict of a jury or by the court trying the case without a jury is found guilty, or who has entered a

plea of guilty or nolo contendere, of unlawfully and intentionally killing or procuring the death of such member shall forfeit all rights to the deceased member's retirement benefits. Any benefits will be paid as if such beneficiary had predeceased the deceased member, however, benefits may not be paid by the Division pending final resolution of such charges against the beneficiary.

Rulemaking Specific Authority 121.031 FS. Law Implemented 121.091(5) FS. History--New 8-4-94, Amended 4-5-95, 12-12-96, 2-24-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarabeth Snuggs, Director, the Division of Retirement
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John P. Miles, Secretary, Department of Management Services
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010, Vol. 36/24

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE NO.: 60S-4.016
RULE TITLE: Survivor Benefits under Chapter 238, Florida Statutes

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to repeal a rule identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: This rule is being repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Not required because there are no adverse impacts on economic growth, business competitiveness or regulatory costs of more than \$1M in the aggregate within five years of implementation.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The repeal of this rule is not expected to require legislative ratification pursuant to Section 120.541(3)(a)1., F.S., as there will be no impact on economic growth, job creation or employment, private-sector investment, or business competitiveness and no increase in regulatory costs.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.051(2)(a)2. FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: November 4, 2011, 10:00 a.m., ET

PLACE: Division of Retirement of the Department of Management Services, Director's Conference Room, Suite 208, 1317 Winewood Blvd., Bldg 8, Tallahassee, Florida 32399-1560

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Richard Clifford, Senior Benefits Analyst, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706

THE FULL TEXT OF THE PROPOSED RULE IS:

60S-4.016 Survivor Benefits under Chapter 238, Florida Statutes.

Rulemaking Authority 121.031 FS. Law Implemented 121.051(2)(a)2. FS. History--New 1-1-72, Repromulgated 12-31-74, 7-1-79, Formerly 22B-4.16, 22B-4.016, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Sarabeth Snuggs, Director of the Division of Retirement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John P. Miles, Secretary of the Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2011

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE NO.: RULE TITLE:

60S-6.001 Definitions

PURPOSE AND EFFECT: The purpose and effect are to amend Division of Retirement rules to correspond with statutory changes up through the 2010 Legislative session and delete obsolete language.

SUMMARY: The amendments in this rule: clarify that the authority and responsibility for administration of the Florida Retirement System (FRS) Pension Plan rest with the Department of Management Services, Division of Retirement. Also, clarify the definitions of the terms "termination," "gross compensation," and "average final compensation"; establish the blended or uniform contribution rate for employers participating in the FRS; add and expand certain definitions as required by statute.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

No State of Estimated Regulatory Cost was prepared. The agency has determined that this rule shall not have an effect on small businesses as defined by Section 288.703, Florida Statutes, nor on small counties or small cities as defined by Section 120.52, Florida statutes. Any person who wishes to provide information regarding the statement of estimated costs or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimate regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

Not required because there are no adverse impacts on economic growth, business competitiveness or regulatory costs of more than \$1M in the aggregate within five years of implementation.

RULEMAKING AUTHORITY: 121.031, 121.052(7) FS.

LAW IMPLEMENTED: 121.021, 121.031, 121.051, 121.0515, 121.052, 121.091(5)(e), 112.215, 121.4501, 121.70, 943.22(2)(e) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 4, 2011, 10:00 a.m., ET

PLACE: Division of Retirement of the Department of Management Services, Director's Conference Room, Suite 208, 1317 Winewood Blvd., Bldg 8, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Garry Green, Operations and Management Consultant Manager, Department of

Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706

THE FULL TEXT OF THE PROPOSED RULE IS:

60S-6.001 Definitions.

Whenever used in these rules, unless otherwise expressly stated, or unless the context or subject matter requires a different meaning, the following words and terms shall have the respective meanings indicated:

(1) ACCUMULATED ANNUAL LEAVE PAYMENT – Means any payment, made either during an employee’s employment or at termination or retirement, for leave accrued during such employee’s career and which was intended but never utilized by the employee for his or her personal use. General leave, which may be used for both sickness and vacation, is considered accumulated annual leave. When leave is initially accrued separately as annual leave or sick leave and later combined into a consolidated leave account, only the payment for that portion which represents annual leave shall be considered as compensation. If any single lump-sum annual leave payment, made anytime during a member’s employment, exceeds 500 hours, only a maximum of 500 hours of such annual leave payment shall be considered as compensation. Accumulated annual leave payments that may be included in the Average Final Compensation are limited to a combined total of 500 hours as provided in subsection (6).

(2) ACCUMULATED CONTRIBUTIONS – Means the sum of:

(a) A member’s contributions without interest subsequent to December 1, 1970;⁵ and

(b) The single-sum amount the member would have received if he or she were covered by an existing system prior to December 1, 1970, and had terminated membership in such system on November 30, 1970; subject to reduction on account of benefit payments as provided under certain options.

(3) ACCUMULATED SICK LEAVE PAYMENT – Means leave accrued during an employee’s career which was intended for use in the event of sickness, injury or other health problems of a member or his or her family. General leave that which may be used for both sickness and vacation is not considered sick leave. When leave is initially accrued separately as annual leave or sick leave and later combined into a consolidated leave account, the payment that which represents sick leave shall not be considered compensation. Payment for any accumulated sick leave shall not be considered compensation for retirement purposes and shall not be included in the Average Final Compensation.

(4) ADMINISTRATOR – Means the person charged with the responsibility and authority for administering the Florida Retirement System Pension Plan. Such person is the Secretary of the Department of Management Services. From July 1, 1970, through June 30, 1972, this term means the Director of

~~the Division of Personnel and Retirement of the Department of Administration. On and after July 1, 1972, this term shall mean the Director of the Division of Retirement.~~

(5) ANNUAL COMPENSATION – Means the total compensation paid a member during a fiscal year. A year is 12 continuous months.

(6) AVERAGE FINAL COMPENSATION – Means the average of the 5 highest fiscal years of compensation for creditable service prior to retirement, termination or death calculated in accordance with subsection 60S-4.004(1), F.A.C.

(a) The average final compensation shall include:

1. Accumulated annual leave payments as defined in subsection 60S-6.001(1), F.A.C., not to exceed 500 hours,
2. All payments defined as compensation in subsection 60S-6.001(16), F.A.C.,

(b) The average final compensation shall not include:

1. Compensation paid to professional persons for special or particular services.
2. Payments made due to retirement or termination for accumulated sick leave as defined in subsection 60S-6.001(3), F.A.C.

3. Payments for annual leave in excess of 500 hours.
4. Bonuses as defined in subsection 60S-6.001(11), F.A.C.
5. Third party payments made on and after July 1, 1990.
6. Automobile allowances.
7. Housing allowances.
8. Uniform or tool allowances.

9. Fair market value of employer-provided vehicles or reimbursement to employee of market value of employer-provided vehicles.

10. Stipends in lieu of an employer-furnished vehicle.

11. Stipends for reimbursement of parking expenses.

12. Value of meals and lodgings and/or reimbursement for the same.

13. Refunds of insurance premiums paid by the employee provided that the employee does not file an insurance claim.

14. Employer payments for a Health and Life Insurance Program in addition to the base salary.

15. Cash payments paid under a flexible benefits program when the employee’s base salary has not been increased.

(7) through (9) No change.

(10) BLENDED OR UNIFORM CONTRIBUTION RATE – Means the single contribution rate required for each class of membership in the Florida Retirement System, which shall be sufficient to fund both Part I and Part II of the Florida Retirement System in an actuarially sound manner, as provided in Part III of Chapter 121, F.S.

~~(11)(10)~~ BONUS – Means a payment made in addition to an employee’s regular or overtime salary that is usually non-recurring, does not increase the employee’s base rate of pay and includes no commitment for payment in a subsequent year. Such payments are not considered compensation and,

effective July 1, 1989, shall not be reported to the Division as salary, and retirement contributions shall not be made on such payments.

(a) A payment is a bonus if any one of the following applies ~~apply~~:

1. The payments are not paid according to a formal written policy applying to all eligible employees equally; ~~or~~
2. The payments commence later than the eleventh year of employment; ~~or~~
3. The payments are not based on permanent eligibility; or
4. The payments are paid less than annually.;

(b) Bonuses shall include but not be limited to the following:

1. Exit bonus or severance pay;
2. Longevity payments made in conformance with the provisions of paragraph 60S-6.001(11)(a), F.A.C., above;
3. Salary increases granted due to an employee's agreement to retire, including increases paid over several months or years prior to retirement;
4. Payments for accumulated overtime or compensatory time, reserve time, or holiday time worked, if not made within 11 months of the month in which the work was performed; and
5. Lump sum payments in recognition of employees' accomplishments.

~~(12)(11)~~ BREAK IN SERVICE – Means an interruption in the continuous service of a member where any of the following occurs:

(a) The member terminates his or her employment in a position covered by the Florida Retirement System or any existing retirement system and receives a refund of the accumulated contributions he or she has made, even though the member later claims prior service and repays the refunded contributions plus interest.

(b) The member has an absence of one calendar month or more from an employer's payroll except for periods of absence where an employer-employee relationship continues to exist and such absence is creditable under the Florida Retirement System or one of the existing systems.

~~(13)(12)~~ CALENDAR MONTH – Means one of the 12 divisions of a year as determined by the Gregorian calendar (e.g., January, April, etc.).

~~(14)(13)~~ CALENDAR YEAR – Means a period of time beginning January 1 and ending on the following December 31.

~~(15)(14)~~ CLOSED RETIREMENT SYSTEM – Means "existing systems" – the retirement systems which existed prior to December 1, 1970, and which were consolidated by Chapter 121, F.S. From December 1, 1970, through June 30, 1972, this term means the State and County Officers and Employees' Retirement System, the Teachers' Retirement System and the Highway Patrol Pension System created by Chapters 122, 238, and 321, F.S., respectively. On and after

July 1, 1972, this term also includes ~~shall include~~ the Judicial Retirement System established by Chapter 123, F.S. On and after July 1, 2007, this term also includes the Institute of Food and Agricultural Sciences Supplemental Retirement Program, established by Section 121.40, F.S.

~~(16)(15)~~ COMPENSATION OR GROSS COMPENSATION –

(a) Compensation means the total gross monthly salary paid a member by his or her employer for work performed arising from that employment, including:

1. Overtime payments, except as provided in subparagraph 60S-6.001(11)(b)4., F.A.C.;
2. Accumulated annual leave payments, as defined in subsection 60S-6.001(1), F.A.C.;
3. Payments in addition to the employee's base rate of pay if all the following apply:
 - a. The payments are paid according to a formal written policy that applies to all eligible employees equally; ~~and~~
 - b. The policy provides that payments shall commence not later than the eleventh year of employment; ~~and~~
 - c. The payments are paid for as long as the employee continues his or her employment; and
 - d. The payments are paid at least annually.
4. Amounts withheld for tax-sheltered annuities or deferred compensation programs, or any other type of salary reduction plan authorized under the Internal Revenue Code;
5. Payments, whether made annually or in 12 or 26 equal payments within a 12-month period, made in lieu of a permanent increase in the base rate of pay when the member's base pay is at the maximum of his or her pay range. When a portion of a member's annual increase raises his or her base pay to the maximum of his or her pay range, and the excess is paid as a lump sum payment, such lump sum payment shall be compensation for retirement purposes.;

6. Salary supplements paid on or after July 1, 2002 and prior to July 1 2008, to teachers under the Excellent Teaching Program or the Florida Mentor Teacher Pilot Program, as provided in and subject to the requirements of Sections 1012.72 and 1012.73, F.S.

(b) Compensation shall not include:

1. Any bonuses or other payments prohibited from inclusion in the member's average final compensation as defined in paragraph 60S-6.001(6)(b), F.A.C.;
2. Any public funds paid by an employer into an employee's salary reduction, deferred compensation, or tax-sheltered annuity program on or after July 1, 1990 (the date as of which all employers were notified in writing by the Division to cease making contributions based on such amounts). However, if an employer was notified in writing by the Division to cease making such contributions as of a different date, that employer shall be subject to the requirements of such written notice.

3. Any amounts in excess of the Internal Revenue Code (IRC) Section 401(a)(17), F.S., limitation as follows:

a. For any person who first became a member before July 1, 1996, compensation for all plan years beginning on or after July 1, 1990, shall not include any amounts in excess of the maximum of \$200,000 in 1989, adjusted for changes in the cost of living thereafter;

b. For any person who first became a member on or after July 1, 1996, compensation for any plan year shall not include any amounts in excess of the maximum of \$150,000 in 1996, adjusted for changes in the cost of living as published by the Internal Revenue Service only in increments of \$10,000.

~~(17)(16)~~ CONTINUOUS SERVICE – Means service in a regularly established position beginning with the first day of employment with an employer covered under a state-administered retirement system consolidated herein and continuing for as long as the member remains in an employer-employee relationship with an employer covered under the system. Continuous service shall cease if the member has a break in service as defined in subsection 60S-6.001(12), F.A.C. Continuous service shall also include past service provided such service is continuous within this definition.

The following types of creditable service shall be considered continuous if the specific criteria listed for each is met:

(a) Military Service Subsequent to Membership in a Retirement System: Military service which interrupts employment and for which retirement credit has been granted under an existing system or the Florida Retirement System pursuant to subsection 60S-2.005(1), F.A.C., shall constitute continuous service.

(b) Leave of Absence Credit: A leave of absence for which credit has been granted under the Florida Retirement System pursuant to Rule 60S-2.006, F.A.C., or an existing retirement system shall not constitute a break in continuous service.

(c) Past Service: Past service as defined by subsection ~~60S-6.001(46)~~ ~~60S-6.001(42)~~, F.A.C., may be claimed as continuous creditable service, if such service was, in fact, continuous within this definition.

(d) Workers' Compensation Service: Creditable service received in accordance with Rule 60S-2.012, F.A.C., for periods during which workers' compensation payments are received shall be considered continuous provided there has been no break in the continuous nature of the member's service other than for the period for which workers' compensation payments were received.

~~(e) Law Enforcement Service: A law enforcement officer who meets the criteria specified in Rule 60S-1.0051, F.A.C., and who is laid off from his position as provided in Section 110.203(24), F.S., resigns his position under Chapter 122 or 321, F.S., or resigns his position to run for an elected office covered by Rule 60S-1.0051, shall be deemed to have continuous service provided he meets the criteria specified in paragraph 60S-2.002(5)(e), (f), or (g), F.A.C.~~

~~(f) Correctional Officer Service: A correctional officer who meets the criteria specified in Rule 60S-1.0053, F.A.C., and whose membership is terminated by privatization of a county detention facility shall be deemed to have continuous service provided he meets the criteria specified in paragraph 60S-2.002(5)(h), F.A.C.~~

~~(18)(17)~~ COVERED EMPLOYMENT – Means employment in a regularly established position with an employer that participates in the Florida Retirement System.

~~(19)(18)~~ COVERED GROUP – Means a city or independent special district or a unit thereof, a metropolitan planning organization, public charter school or a public charter technical career center that ~~which~~ is approved for Social Security coverage by the United States Secretary of Health and Human Services and approved by the Administrator for membership in the Florida Retirement System.

~~(20)(19)~~ CREDITABLE SERVICE – Means the sum of a member's past service, prior service, military service, workers' compensation credit, future service, and all other service allowed within the provisions of Chapter 121, F.S., and these rules and regulations, provided that all required contributions have been paid and all other requirements have been met; however, in no case shall a member receive credit for more than a year's service during any 12-month period. Service as applied to a teacher or a non-academic employee of a school board shall be based on contract years of employment or school term years of employment as provided in Chapters 122 and 238, F.S., rather than 12-month periods of employment.

~~(21)(20)~~ DEATH IN LINE OF DUTY – Means death arising out of and in the actual performance of duty required by a member's employment during his or her regularly scheduled working hours or irregular working hours as required by the employer.

~~(22)(21)~~ DISABILITY – Means total and permanent disability by reason of a medically determinable physical or mental impairment that ~~which~~ prevents a person from rendering useful and efficient service as an officer or employee.

(a) Disability In-Line-of-Duty – Means disability resulting from an injury or illness arising out of and in the actual performance of duty required by a member's employment during his or her regularly scheduled working hours or irregular working hours as required by the employer.

(b) Regular Disability – Means other than in-line-of-duty disability.

~~(23)(22)~~ DEFERRED MONTHLY BENEFIT – A benefit to which a member or his or her designated beneficiary is entitled at the time the member terminates employment, but for which the member or his or her designated beneficiary chooses to postpone applying until a later date. Upon application, the deferred monthly benefit shall commence based on the actual service earned, the average final compensation at the time of termination and the member's age at the time of application.

~~(24)~~~~(23)~~ EARLY RETIREMENT AGE – Means the first day of the month following the date a member satisfies the service requirements for vesting as provided in paragraph 60S-4.003(1)(b), F.A.C., and elects to receive retirement benefits when the member has not attained normal retirement age as provided in paragraph 60S-4.003(1)(c), F.A.C. Such benefits shall be based on the average monthly compensation and creditable service as of the member's early retirement date, and the benefit so computed shall be reduced by 5/12 of 1 percent for each complete month by which the early retirement age precedes his or her normal retirement age.

~~(25)~~~~(24)~~ EFFECTIVE RETIREMENT DATE – Means the first day of the month in which retirement benefits begin to accrue as provided in Rule 60S-4.0035 or subsection ~~60S-11.001(5), F.A.C.~~ ~~60S-11.001(3), F.A.C.~~

~~(26)~~~~(25)~~ ELECTED OFFICERS' CLASS MEMBER – Means any governor, lieutenant governor, cabinet officer, legislator, supreme court justice, district court of appeal judge, county court judge, circuit judge, state attorney, public defender or any elected ~~county~~ county officer of a county, municipality or independent special district who participates in the Elected Officers' Class of the Florida Retirement System in accordance with Rule 60S-1.0055, F.A.C.

~~(27)~~~~(26)~~ EMPLOYER – Means any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch, department, board, district school board, or independent special district, metropolitan planning organization, public charter school or public charter technical career center of the state or any city of the state which participates in the system for the benefit of certain of its employees. This term shall also apply to any hospital, municipality or independent special district that withdrew from the Florida Retirement under Sections 121.051(2)(b) and 121.0511, F.S., until such time their last remaining employee who retained membership in the Florida Retirement System terminates employment.

~~(28)~~~~(27)~~ EXISTING SYSTEMS – Means the retirement systems ~~that which~~ existed prior to December 1, 1970, and ~~which~~ were consolidated by Chapter 121, F.S. From December 1, 1970, through June 30, 1972, this term means the State and County Officers and Employees' Retirement System, the Teachers' Retirement System and the Highway Patrol Pension System created by Chapters 122, 238, and 321, F.S., respectively. On and after July 1, 1972, this term also includes shall include the Judicial Retirement System established by Chapter 123, F.S. On or after July 1, 2007, this term also includes the Institute of Food and Agricultural Sciences Supplemental Retirement Program, established by Section 121.40, F.S.

~~(29)~~~~(28)~~ FISCAL YEAR – Means a period of time beginning July 1 and ending on the following June 30, both dates inclusive.

~~(30)~~~~(29)~~ FUTURE SERVICE – Means service subsequent to the date of the member's participation in the Florida Retirement System and may include authorized leaves of absence as provided in Rule 60S-2.006, F.A.C.

~~(31)~~~~(30)~~ HIGHWAY PATROL PENSION SYSTEM – Means the retirement system established by Chapter 321, F.S., for all employees of the Department of Highway Safety and Motor Vehicles who have subscribed to the constitutional oath of office.

~~(32)~~~~(31)~~ INITIAL BENEFIT – Means the first monthly retirement benefit payable to a retiree or beneficiary in accordance with the laws governing the determination of such benefit at time of retirement or death.

~~(33)~~~~(32)~~ INDEPENDENT CONTRACTOR – Means an individual who is not subject to the control and direction of the employer for whom work is being performed, with respect not only to what shall be done but also to how it shall be done. If the employer has the right to exert such control, an employee-employer relationship exists and the person is an employee and not an independent contractor. The Division has adopted the following factors as guidelines to aid in determining whether an individual is an employee or an independent contractor. The weight given each factor is not always the same and varies depending on the particular situation.

(a) INSTRUCTIONS: An employee must comply with instructions from his or her employer about when, where, and how to work. The instructions may be oral or may be in the form of manuals or written procedures ~~that which~~ show how the desired result is to be accomplished. Even if no actual instructions are given, the control factor is present if the employer has the right to give instructions.

(b) TRAINING: An employee is trained to perform services in a particular manner. This is relevant when the skills and experience which would be used as an independent contractor were gained as a result of previous employment. Independent contractors ordinarily use their own methods and receive no training from the purchasers of their services.

(c) INTEGRATION: An employee's services are integrated into the business operations because the services are critical and essential to the success or continuation of an agency's progress/operation. This shows that the employee is subject to direction and control.

(d) SERVICES RENDERED PERSONALLY: An employee renders services personally. This shows that the employer is interested in the methods as well as the results. Lack of employer control may be indicated when a person has the right to hire a substitute without the employer's knowledge or approval.

(e) **HIRING ASSISTANTS:** An employee works for an employer who hires, supervises, and pays assistants. An independent contractor hires, supervises, and pays assistants under a contract that requires him or her to provide materials and labor and to be responsible only for the result.

(f) **CONTINUING RELATIONSHIP:** An employee has a continuing relationship with an employer. A continuing relationship may exist where work is performed at frequently recurring, although irregular intervals.

(g) **SET HOURS OF WORK:** An employee usually has set hours of work established by an employer. An independent contractor is the master of his or her own time and works on his or her own schedule.

(h) **FULL-TIME OR PART-TIME WORK:** An employee may work either full-time or part-time for an employer. Full-time does not necessarily mean an 8-hour day or a 5 or 6-day week. Its meanings may vary with the intent of the parties, the nature of the occupation and customs in the locality. These conditions should be considered in defining "full-time." An independent contractor can work when and for whom he or she chooses.

(i) **WORK DONE ON PREMISES:** An employee works on the premises of an employer, or works on a route or at a location designated by an employer. The performance of work on the employer's premises is not controlling in itself; however, it does imply that the employer has control over the employee. Work performed off the employer's premises does indicate some freedom from control; however, it does not in itself mean the worker is not an employee.

(j) **ORDER OR SEQUENCE OF SERVICES:** An employee generally performs services in the order or sequence set by an employer. This shows that the employee is subject to direction and control of the employer.

(k) **REPORTS:** An employee submits oral or written reports to an employer. This shows that the employee must account to the employer for his or her actions.

(l) **PAYMENTS:** An employee is usually paid by the hour, week, or month. An independent contractor is paid periodically (usually a percent of the total payment) by the job or on a straight commission.

(m) **EXPENSES:** An employee's business and/or travel expenses are paid by an employer. This shows that the employer is in a position to control expenses and therefore the employee is subject to regulations and control.

(n) **TOOLS AND MATERIALS:** An employee is furnished significant tools, materials, and other equipment by an employer. An independent contractor usually provides his or her own tools, materials, etc.

(o) **INVESTMENT:** An employee is usually furnished the necessary facilities. An independent contractor has a significant investment in the facilities he or she uses in performing services for someone else.

(p) **PROFIT OR LOSS:** An employee performs the services for an agreed upon wage and is not in a position to realize a profit or suffer a loss as a result of his or her services. An independent contractor can make a profit or suffer loss. Profit or loss implies the use of capital by the individual in an independent business of his or her own.

(q) **WORKS FOR MORE THAN ONE PERSON OR FIRM:** An employee usually works for one organization. However, a person may work for a number of people or organizations and still be an employee of one or all of them. An independent contractor provides his or her services to two or more unrelated persons or firms at the same time.

(r) **OFFERS SERVICES TO GENERAL PUBLIC:** An independent contractor makes his or her services available to the general public. This can be done in a number of ways: Having his/her own office and assistants, hanging out a "shingle", holding business licenses, having listings in business directories and telephone directories, and advertising in newspapers, trade journals, etc.

(s) **RIGHT TO TERMINATE EMPLOYMENT:** An employee can be fired by an employer. An independent contractor cannot be fired so long as he or she produces a result that meets the specifications of the contract. An independent contractor can be terminated but usually he or she will be entitled to damages for expenses incurred, lost profit, etc.

(t) **RIGHT TO QUIT:** An employee can quit his or her job at any time without incurring liability. An independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion, or is legally obligated to make good for failure to complete it.

(34) INDEPENDENT SPECIAL DISTRICT – Means an independent local unit of special-purpose, as opposed to general-purpose, government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers. The term does not include a school district, a community college district, a special improvement district created pursuant to Section 285.17, F.S., a municipal service taxing or benefit unit as specified in Section 125.01, F.S., or a board that provides electrical service and which is a political subdivision of a municipality or is part of a municipality. The membership of the governing body of an independent special district shall not be identical to, appointed by, or subject to removal by the governing body of a single county or a single municipality; nor shall the budget of an independent special district require approval by such a governing body. A district that includes more than one county is an independent special district.

(35) INVESTMENT PLAN – Means the Florida Retirement System defined contribution plan, otherwise known as the Public Employee Optional Retirement Program, as provided in Part II of Chapter 121, F.S.

~~(36)~~~~(33)~~ JOINT ANNUITANT – Means:

(a) The spouse; or

(b) A natural or legally adopted child who is either under 25 or physically or mentally disabled and incapable of self-support, regardless of age, or any other person under 25 for whom the member is the legal guardian and who is financially dependent for no less than one-half of his or her support from the member at retirement or at the time of death of such member, whichever occurs first; or

(c) a parent, or grandparent, or a person age 25 or older for whom the member is the legal guardian, provided that such parent, grandparent, or other person is financially dependent for no less than one-half of his or her support from the deceased member at retirement or at time of the death of such member, whichever occurs first. See also paragraph 60S-4.011(5)(c), F.A.C.

~~(37)~~~~(34)~~ JUDICIAL RETIREMENT SYSTEM – Means the retirement system established by Chapter 123, F.S., for supreme court justices, district court of appeal judges, and circuit judges of the state, consisting of:

(a) Division A – Members of the Judicial Retirement System who are members as of July 1, 1963, and who have not elected to become members of Division B.

(b) Division B – Members of the Judicial Retirement System who are members as of July 1, 1963, who elected to become members of Division B and receive social security coverage.

(c) Division C – Members of the Judicial Retirement System who became members on or after July 1, 1963.

~~(38)~~~~(35)~~ LEAVE OF ABSENCE (Authorized Leave of Absence) – Means a leave of absence from employment under the Florida Retirement System, subsequent to November 30, 1970, for which retirement credit may be received in accordance with Rule 60S-2.006, F.A.C.

~~(39)~~~~(36)~~ LOCAL AGENCY EMPLOYER – Means any of the following entities that which participate in the system for the benefit of certain of its employees: The the board of county commissioners or other legislative governing body of a county, including that of a consolidated or metropolitan government; a clerk of the circuit court; a sheriff, property appraiser, tax collector, or supervisor of elections, provided that such officer is elected or has been appointed to fill a vacancy in an elective office; a community college board of trustees or district school board; a public charter school; a public charter technical career center; the governing body of any city or independent special district of the state; a metropolitan planning organization; or the governing body of any council, commission, authority, or other governmental entity that is created or authorized by general or special law, and that which is independent of any other local agency employer. This term shall also apply to any hospital, municipality or independent special district that withdrew from the Florida Retirement under Sections

121.051(2)(b) and 121.0511, F.S., until such time their last remaining employee who retained membership in the Florida Retirement System terminates employment.

~~(40)~~~~(37)~~ MEMBER – Means any officer or employee who is covered by the provisions of the Florida Retirement System, including any officer or employee who is on an approved leave of absence.

~~(41)~~ METROPOLITAN PLANNING ORGANIZATION OR MPO – Means an entity created by an interlocal agreement pursuant to Section 339.175, F.S., or any other entity created pursuant to Section 339.175, F.S., that has applied for and been approved for participation in the Florida Retirement System.

~~(42)~~~~(38)~~ NON-COVERED EMPLOYER – Means any public or private employer that does not participate in the Florida Retirement System.

~~(43)~~~~(39)~~ NORMAL RETIREMENT AGE OR DATE – Means the time at which a member is first eligible to receive a normal retirement benefit without actuarial reduction to such benefit because of early retirement as provided in subsection 60S-4.003(23), F.A.C. paragraph 60S-4.003(1)(b), F.A.C.

~~(44)~~~~(40)~~ OFFICER OR EMPLOYEE – Means any person receiving compensation for work performed in a regularly established position with any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch department, board, district school board, or any city or independent special district, or metropolitan planning organization, or participating public charter school or public charter technical career center of the state that which participates in the Florida Retirement System. (See definition of “regularly established position”).

~~(45)~~~~(41)~~ PARTICIPATION IN THE FLORIDA RETIREMENT SYSTEM – Means being subject to the provisions of the Florida Retirement System and making the contributions required by Chapter 121, F.S., and these rules and regulations.

~~(46)~~~~(42)~~ PAST SERVICE – Means the number of years, complete months and any fractional part of a month of employment during which an employee is in the active employ of a city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center prior to the time such city, independent or special district, metropolitan planning organization, public charter school or public charter technical career center becomes a covered group under the Florida Retirement System, or service prior to January 1, 1968, in the Cuban Refugee Assistance Program administered by the Florida State Department of Public Welfare or other service as described in Rule 60S-2.003, F.A.C. Credit for past Past service with a city or special district can be purchased in accordance with applicable conditions and circumstances as set forth in Rule 60S-2.003, F.A.C. claimed as creditable service only by a member who was in the active employ of said city or special district at the time the city or special district becomes a covered group under the Florida

Retirement System. Credit for service in the Cuban Refugee Assistance Program may be granted only if credit for such service has not or will not be granted under any other state or federal retirement or pension system.

~~(47)~~(43) PAYEE – Means a retiree or beneficiary of a retiree who is receiving a retirement benefit payment.

~~(48)~~ PENSION PLAN – Means the Florida Retirement System defined benefit plan as provided in Part I of Chapter 121, F.S.

~~(49)~~(44) PHASED RETIREMENT PROGRAM – Means a program contracted by the governing board of a participating university or community college in which a retired member may be reemployed in a faculty position provided:

(a) The member retired and met the definition of termination as provided in subsection 60S-6.001(69), F.A.C. in this section;

(b) The retired member is reemployed for not more than 780 hours during the first 12 months of retirement; and

(c) The retired member is reemployed with the university or community college from which he or she retired.

~~(50)~~ PLAN CHOICE ADMINISTRATOR or THIRD-PARTY ADMINISTRATOR – Means the entity hired by the State Board of Administration, pursuant to Section 121.4501(8)(b)1., F.S., to provide administrative services for the Florida Retirement System Investment Plan and is responsible for processing enrollment forms received from employees making a retirement plan choice either by form, by telephone, or on the MyFRS.com website (www.MyFRS.com).

~~(51)~~(45) PLAN YEAR – Means the period of time beginning July 1 and ending on the following June 30, both dates inclusive, for all state-administered retirement systems.

~~(52)~~(46) PREVIOUS SERVICE – Means the number of years, complete months and any fractional part of a month, recognized and credited by an employer and approved by the Administrator, of service under one of the retirement systems established by Chapter 121, 122, 123, 238, or 321, F.S., on which the required contributions were paid at the member's termination of employment, and for which the member has received no refund of contributions.

~~(53)~~(47) PRIOR SERVICE – Means employment in a regularly established position with an agency participating in a state administered retirement system in Florida for which no contributions were paid or contributions were withdrawn service as described in subsection 60S 2.004(1), F.A.C.

~~(48)~~ PRIVATIZATION – Means the transfer of control or ownership of a county detention facility by contract with a private entity pursuant to Section 951.062, F.S.

~~(54)~~ PUBLIC CHARTER SCHOOL – Means an public school established pursuant to Section 1002.33, F.S., which is established as a public employer in its charter as provided in subparagraph 1002.33(12)(i), F.S., that has applied for and been approved for participation in the Florida Retirement System.

~~(55)~~ PUBLIC CHARTER TECHNICAL CAREER CENTER – Means a public school or a public technical center operated under a public charter granted by a district school board or community college board of trustees or a consortium, including one or more district school boards and community college boards of trustees, that includes the district in which the facility is located, pursuant to Section 1002.34(3)(a), F.S., that has applied for and been approved for participation in the Florida Retirement System.

~~(56)~~(49) PUBLIC OFFICE – Means an office created by the Constitution of the State of Florida or by the Legislature pursuant thereto, which must be filled by vote of the electorate.

~~(57)~~(50) REGULAR CLASS MEMBER – Means any member of the Florida Retirement System other than a Special Risk Class member, a Special Risk Administrative Support Class member, an Elected Officers' Class member, or a Senior Management Service Class member.

~~(58)~~(51) REGULARLY ESTABLISHED POSITION – A regularly established position in a State agency is a position which is authorized and established pursuant to law and is compensated from a salaries and benefits appropriation pursuant to paragraphs Sections 216.011(1)(c) and (dd) ~~(x)~~ 1. and 2., F.S., or an established position which is authorized pursuant to Sections 216.262(1)(a) and (b), F.S., and is compensated from a salaries and benefit appropriation pursuant to Sections 216.011(c) and 216.011(1)(dd), F.S., as defined in Section 216.011(mm), F.S. account in accordance with Rule 3A-10.031, F.A.C. A regularly established position in a local agency (district school board, county agency, community college, participating city, independent and special district, metropolitan planning organization, public charter school or charter technical career center) is an employment position which will be in existence for a period beyond 6 consecutive calendar months, except as provided in paragraph 60S-1.004(5)(d), F.A.C.

~~(59)~~(52) RETIREE – Means a former member of one of the retirement systems established by Chapters 121, 122, 123, 238, and 321, F.S., who has terminated his or her employment and is receiving benefits from the system in which he or she was a member. This term also includes a person who retired and is receiving benefits under Section 112.05, F.S., and a DROP participant as provided in Chapter 60S-11, F.A.C., who has not terminated his or her employment.

~~(60)~~(53) SENIOR MANAGEMENT SERVICE CLASS MEMBER – Means any member who is eligible to participate in the Senior Management Service Class of the Florida Retirement System in accordance with Rule 60S-1.0057, F.A.C.

~~(54)~~ SPECIAL DISTRICT – Means an independent local unit of special purpose, as opposed to general purpose, government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts

are implemented by specialized functions and related prescribed powers. The term does not include a school district, a community college district, a special improvement district created pursuant to Section 285.17, F.S., a municipal service taxing or benefit unit as specified in Section 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality. The membership of the governing body of an independent special district shall not be identical to, appointed by, or subject to removal by the governing body of a single county or a single municipality; nor shall the budget of an independent special district require approval by such a governing body. A district that includes more than one county is an independent special district.

~~(61)(55)~~ SPECIAL RISK CLASS MEMBER – Prior to October 1, 1978, Special Risk Class member means any officer or employee receiving salary payments for work performed as a peace officer, law enforcement officer, policeman, highway patrolman, custodial employee at a correctional or detention facility, fireman or any other job in the field of law enforcement or fire protection; provided that the duties of such person are certified as hazardous by his or her employer and approved by the Division of Retirement.

(a) Effective October 1, 1978, Special Risk Class member shall mean any officer or employee employed as a law enforcement officer, firefighter or correctional officer who complies with the criteria set forth in Rules 60S-1.0051, 60S-1.0052, and 60S-1.0053, F.A.C., and is approved for Special Risk Class ~~special-risk~~ membership by the Division of Retirement pursuant to Rule 60S-1.005, F.A.C.

(b) Effective October 1, 1999, Special Risk Class member shall also include officer or employee employed as an emergency medical technician or paramedic who complies with the criteria set forth in Rule 60S-1.00535, F.A.C., and is approved for Special Risk Class ~~special-risk~~ membership by the Division of Retirement pursuant to Rule 60S-1.005, F.A.C.

(c) Effective January 1, 2001, Special Risk Class member shall also mean any officer or employee employed as a community-based correctional probation officer, ~~and certain professional health care members employed by the Department of Corrections or the Department of Children and Family Services~~ as provided in paragraph 60S-1.0053(2)(d), F.A.C.; and shall also mean certain professional health care workers employed by the Department of Corrections or the Department of Children and Family Services who meet the criteria set forth in Section 60S-1.00537, F.A.C.

(d) Effective July 1, 2001, Special Risk Class member shall also mean any officer or employee employed by the Department of Juvenile Justice who meets the criteria set forth in paragraph 60S-1.0053(2)(f), F.A.C.

(e) Effective October 1, 2005 through June 30, 2008, Special Risk Class member shall also mean certain forensic workers employed by either an agency which proclaims itself

to be a law enforcement agency or a medical examiner's office who meet the criteria set forth in subsection 60S-1.00539(1), F.A.C.

(f) Effective July 1, 2008, Special Risk Class member shall also mean certain forensic workers employed by the Department of Law Enforcement in the crime laboratory, or the Division of State Fire Marshal in the forensic laboratory or certain forensic workers employed by a local government law enforcement agency or medical examiner's office who meet the criteria set forth in subsection 60S-1.00539(2), F.A.C.

~~(62)(56)~~ STATE – Means the State of Florida.

~~(63)(57)~~ STATE-ADMINISTERED RETIREMENT SYSTEM – Means any of the retirement systems administered by the Division of Retirement, Department of Management Services ~~state Division of Retirement~~. These systems are the Florida Retirement System (including the State University Optional Retirement Program and the Senior Management Service Optional Annuity Program), Teachers' Retirement System, State and County Officers and Employees' Retirement System, Highway Patrol Pension System, ~~and~~ Judicial Retirement System and Institute of Food and Agricultural Sciences Supplemental Retirement Program.

~~(64)(58)~~ STATE AND COUNTY OFFICERS AND EMPLOYEES' RETIREMENT SYSTEM – Means the retirement system established by Chapter 122, F.S., for all full-time officers or employees who receive compensation for employment or service from any agency, branch, department, institution, or branch of the state or any county of the state, or any independent special district of the state, except those members of a retirement system established by Chapters 123, 238, or 321, F.S., and those employees who were hired prior to July 1, 1947, and who rejected membership in a retirement system, which consists of:

(a) Division A – Consists of those members of the State and County Officers and Employees' Retirement System who were employed prior to January 1, 1958, or those members who were reemployed subsequent to January 1, 1958, and allowed to remain in Division A.

(b) Division B – Consists of those members of the State and County Officers and Employees' Retirement System who elected to become members of Division B or who were employed on or after January 1, 1958, or Metro Dade County Employees, employed on or after July 1, 1969.

~~(65)(59)~~ SUBORDINATE OFFICER – Means a person who has been delegated by an officer the authority to exercise the sovereign power of a state, county, district, or municipality.

~~(66)(60)~~ SUPPORT – Means the total amount spent to provide food, lodging, clothing, education, medical and dental care, transportation, and similar necessities for a person. Support shall include the person's gross income and any payments received by the person from any other person or agency. Expenses related to all members of a household, must be divided by the number of members in the household.

~~(67)(61)~~ TEACHERS' RETIREMENT SYSTEM – Means the retirement system established by Chapter 238, F.S., for all full-time members of the teaching or professional staff and all certificated employees of any public school system of the State, and any tax-supported institution of higher learning of the State, and employees of the Department of Education of the State and employees of the Teachers' Retirement System, and any county school superintendent of public instruction who holds a valid Florida teacher's certificate. Only those members electing Plan E of the Teachers' Retirement System were eligible to transfer to the Florida Retirement System.

Plan E – Consists of those members of the Teachers' Retirement System who were employed on or after July 1, 1955, or who elected to transfer to Plan E from one of the original retirement plans.

~~(68)(62)~~ TEMPORARY POSITION – A temporary position in a state agency is an employment position ~~that which~~ is compensated from an other personal services (OPS) account as provided for in Section 216.011(1)(~~dd~~)(~~*~~), F.S. A temporary position in a local agency is an employment position ~~that which~~ will exist for less than 6 consecutive calendar months, or an instructional position which is established with no guarantee of continuation beyond one term to teach in a community college, district school board public school or participating public charter school or participating public charter technical career center as provided in subparagraph 60S-1.004(5)(b)2., F.A.C., or an employment position that which is listed in sub-paragraph 60S-1.004(5)(b)3.(~~d~~), F.A.C., regardless of whether it will exist for 6 consecutive calendar months or more.

~~(69)(a)(63)~~ TERMINATION – Termination occurs, except as provided in paragraph (b), when a member of the Florida Retirement System or an existing system ceases all employment relationships with all covered employers which includes employment relationships with an employer that withdrew under Sections 121.051(2)(b) and 121.0511, F.S. However: provided that the member shall not be reemployed by any such employer within the next calendar month.

1. For retirements without Deferred Retirement Optional Program (DROP) participation effective before July 1, 2010, if a member is employed by any such employer within the next calendar month, termination shall be deemed not to have occurred. A leave of absence shall constitute a continuation of the employment relationship except as provided in paragraph 60S-4.002(4)(c), F.A.C., for certain members retiring on disability. The Division of Retirement may request additional evidence of termination if available evidence is conflicting, for example, a copy of the member's resignation letter, a copy of the advertised vacancy of the member's position, evidence of payments to the member for unused annual and sick leave or of loss of unused annual and sick leave due to termination, or a copy of the employer's termination document.

2. For retirements without DROP participation effective on or after July 1, 2010, if a member is employed by any such employer within the next 6 calendar months, termination shall be deemed not to have occurred. A leave of absence shall constitute a continuation of the employment relationship except as provided in paragraph 60S-4.002(4)(c), F.A.C., for certain members retiring on disability. The Division of Retirement may request additional evidence of termination if available evidence is conflicting, for example, a copy of the member's resignation letter, a copy of the advertised vacancy of the member's position, evidence of payments to the member for unused annual and sick leave or of loss of unused annual and sick leave due to termination, or a copy of the employer's termination document.

(b) Termination for a member electing to participate in the DROP occurs when the program participant ceases all employment relationships with all covered employers, which includes employment relationships with an employer that withdrew under Sections 121.051(2)(b) and 121.0511, F.S., however:

1. For DROP termination dates occurring before July 1, 2010, if the participant is employed by any such employer within the next calendar month, termination will be deemed not to have occurred, except as provided in Sections 121.090(13)(b)4.c., F.S. A leave of absence shall constitute a continuation of the employment relationship.

2. For DROP termination dates occurring on or after July 1, 2010, if the participant is employed by any such employer within the next six calendar months, termination will be deemed not to have occurred, except as provided in Sections 121.090(13)(b)4.c., F.S. A leave of absence shall constitute a continuation of the employment relationship.

~~(70)(64)~~ VESTED OR VESTING – The guarantee that a member is eligible to receive a future retirement benefit upon completion of the required years of creditable service for the employee's class of membership even though the member may have terminated covered employment before reaching normal or early retirement age, as defined in this section. A member will lose vested rights to any creditable service for which a refund of contributions is received; or if required to forfeit benefits as provided in Section 121.091(5), F.S. Being vested does not entitle a member to a disability benefit based on a disability caused by an injury or disease that occurs after termination of covered employment.

~~(71)(65)~~ WORK YEAR – Means the period of time an employee is required to work to receive a full year of retirement credit, as determined in subsection 60S-2.002(4), F.A.C.

~~(72)(66)~~ WORKERS' COMPENSATION CREDIT – Means retirement credit received by a member for a period during which he or she is eligible to receive or receives

Workers' Compensation payments in accordance with Rule 60S-2.012, F.A.C., for an illness or injury occurring during his or her employment as a member.

~~(67) PENSION PLAN — Means the Florida Retirement System defined benefit plan as provided in Part I of Chapter 121, F.S.~~

~~(68) INVESTMENT PLAN — Means the Florida Retirement System defined contribution plan, otherwise known as the Public Employee Optional Retirement Program, as provided in Part II of Chapter 121, F.S.~~

~~(69) BLENDED OR UNIFORM CONTRIBUTION RATE — Means the single contribution rate required for each class of membership in the Florida Retirement System, which shall be sufficient to fund both Part I and Part II of the Florida Retirement System in an actuarially sound manner, as provided in Part III of Chapter 121, F.S.~~

Rulemaking Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.021, 121.021(39), 121.031, 121.051, 121.051(2)(b)6, 121.051(6), 121.0515, 121.052, 121.091(5)(e), 112.215, 121.4501, 121.70, 943.22(2)(e) FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 1-16-77, 10-3-78, 7-1-79, 8-26-81, 1-19-82, 9-9-82, 10-12-82, 1-18-83, 2-6-84, 11-6-84, 4-17-85, Formerly 22B-6.01, Amended 2-4-86, 1-12-87, 3-11-87, 2-7-89, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-6.001, Amended 1-25-94, 8-4-94, 4-5-95, 3-12-96, 7-4-96, 12-12-96, 2-24-99, 8-13-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarabeth Snuggs, Director, Division of Retirement
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John P. Miles, Secretary, Department of Management Services
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2010, Vol. 36/24

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE NO.: 60S-9.001 RULE TITLE: Approved Forms

PURPOSE AND EFFECT: The purpose of this rule development is to change this rule from the rule in which all Division forms are incorporated by reference to a listing of Division forms incorporated by reference throughout Chapter 60S-9, F.A.C.

SUMMARY: This rule has been revised to be a listing of all Division forms incorporated by reference throughout chapter 60S-9, F.A.C. rather than the rule where Division forms are incorporated by reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

No State of Estimated Regulatory Cost was prepared. The agency has determined that this rule shall not have an effect on small businesses as defined by Section 288.703, Florida

Statutes, nor on small counties or small cities as defined by Section 120.52, Florida Statutes. Any person who wishes to provide information regarding the statement of estimated costs or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimate regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

Not required because there are no adverse impacts on economic growth, business competitiveness or regulatory costs of more than \$1M in the aggregate within five years of implementation.

RULEMAKING AUTHORITY: 121.031, 121.4501 FS.

LAW IMPLEMENTED: 1.01, 112.215, 112.361, 112.363, 120.55, 121.011, 121.015, 122.021, 121.031(2), 121.051, 121.0515, 121.053, 121.081, 121.091, 121.111, 121.115, 121.1122, 121.121, 121.125, 121.35, 121.4501, 121.591, 122.08, 122.09, 215.28, 238.05, 238.06, 238.07, 689.21, 1012.01 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW

DATE AND TIME: November 4, 2011, 10:00 a.m., ET
 PLACE: Division of Retirement of the Department of Management Services, Director's Conference Room, Suite 208, 1317 Winewood Blvd., Bldg. 8, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706

THE FULL TEXT OF THE PROPOSED RULE IS:

60S-9.001 Approved Forms.

The following is a list of the forms utilized by the Division of Retirement in its dealings with the public, which are ~~hereby~~ incorporated by reference throughout Chapter 60S, F.A.C. into these rules. A copy of these forms may be obtained from the Division's website (<http://frs.myflorida.com>) or by writing to the Division of Retirement, P. O. Box 9000, Tallahassee, Florida 32315-9000. You may also call the Division to request a copy of these forms by calling (850)488-5706. If calling from outside the Tallahassee calling area, you may call the Division toll-free at (877)377-1737.

(1)(a) Bureau of Enrollment and Contributions.

FORM NO./REVISION DATE	TITLE/DESCRIPTION
1. <u>BEN-001</u> (Rev. 6/04)	Florida Retirement System Pension Plan Beneficiary Designation Form Active Members Only – a one-page form.
2. <u>FRS-400</u> (Rev. 4/00)	Florida Retirement System Application for Special Risk Membership Law Enforcement/Correctional Officers – a one-page form.
3. <u>FRS-401</u> (Rev. 7/99)	Florida Retirement System Special Risk Credit for Past Service – a one-page form.
4. <u>FRS-402</u> (Rev. 10/01)	Florida Retirement System Application for Special Risk Equivalent Credit – a one-page form.
5. <u>FRS-404</u> (Rev. 11/02)	Florida Retirement System Application for Special Risk Administrative Support Class – a one-page form.
6. <u>FRS-405</u> (Rev. 10/03)	Florida Retirement System Application for Special Risk Membership Firefighters/Paramedics/EMTs – a one-page form.
7. <u>ERQ-1</u> (Rev. 8/06)	Florida Retirement System Pension Plan Employment Relationship Questionnaire for Retirees Within the 2nd – 12th Months – a five-page form.
8. <u>BLE-1</u> (8/99)	Florida Retirement System Pension Plan Ballot for Member of an Existing Retirement System – a one-page form.
9. <u>SMSD-1</u> (Rev. 8/00)	Florida Retirement System Senior Management Service Class Designated Position Form – a two-page document consisting of one-page of instruction and a one-page form.
10. <u>FRS-410</u> (08/05)	Florida Retirement System Application for Special Risk Class Membership Forensic Discipline <u>from October 2005 through June 2008</u> – a one-page form.
11. <u>FRS-415</u>	<u>Florida Retirement System Application for Special Risk Class Membership for Forensic Discipline effective July 2008 – a one-page form.</u>
11. <u>FR-SUSORP</u> (08/07)	Florida Retirement System Verification of State University Optional Retirement System Service (SUSORP) Service Dates – a one-page form.
(b) State Board of Administration – Enrollment and Election forms.	
FORM NO./REVISION DATE	TITLE/DESCRIPTION
1. <u>OCC-1</u> (Rev. 07/07)	Community College Optional Retirement Program (CCORP) Enrollment Form.
2. <u>OCC-2</u> (Rev. 07/07)	Community College Optional Retirement Program (CCORP) Retirement Plan Conversion Form.
3. <u>SMS-1</u> (Rev. 07/07)	State Senior Management Service Employees Retirement Plan Enrollment Form.
4. <u>SMS-3</u> (Rev. 07/07)	Local Senior Management Service Employees Retirement Plan Enrollment Form.
5. <u>EOC-1</u> (Rev. 07/07)	Elected Officers' Class Retirement Plan Enrollment Form.
6. <u>ELE-1</u> (Rev. 07/07)	GENERAL Retirement Plan Enrollment Form for Regular, Special Risk, and Special Risk Administrative Support Class Employees.
7. <u>ELE-1-EZ</u> (Rev. 07/07)	EZ Retirement Plan Enrollment Form for Regular, Special Risk, and Special Risk Administrative Support Class Employees.
8. <u>ELE-2</u> (Rev. 07/07)	2nd Election Retirement Plan Enrollment Form.
9. <u>ELE-2-EZ</u> (Rev. 07/07)	2nd Election EZ Retirement Plan Enrollment Form.
10. <u>ORP-16</u> (Rev. 7/07)	State University System Optional Retirement Program (SUSORP) Retirement Plan Enrollment Form.
11. <u>CERT</u>	<u>Florida Retirement System (FRS) – Certification Form</u>
11. <u>SMS-4</u> (11/05)	Retirement Plan CONVERSION Form for Local Employer-Senior Management Service Class (SMSC) Members.

(2) Bureau of Retirement Calculations.

FORM NO./REVISION DATE	TITLE/DESCRIPTION
(a) <u>FR-9</u> (Rev. 6/04)	Florida Retirement System Pension Plan Information Request a one-page form.
(a) (b) <u>FR-11</u> (Rev. 7/06)	Florida Retirement System Pension Plan Application for Service Retirement – a two-page document consisting of one page of instruction and a one-page form.
(b) (e) <u>SR-11</u> (Rev. 9/07)	State and County Officers’ and Employees’ Retirement System Application for Service Retirement – a two-page document consisting of one page of instruction and a one-page form.
(c) (d) <u>TR-11</u> (Rev. 9/07)	Teachers’ Retirement System Application for Service Retirement – a two-page document consisting of one page of instruction and a one-page form.
(d) (e) <u>FR-28</u> (Rev. 6/04)	Division of Retirement Pension Plan Application to Purchase Retirement Credit for a Pension Plan Leave of Absence – a two-page document consisting of one page of information and a one-page form.
(e) (f) <u>MF-1</u> (Rev. 7/06)	Florida Retirement System Pension Plan Statement of Military Eligibility – a two-page document consisting of one-page of information and a one-page form.
(f) (g) <u>TR-4</u> (Rev. 4/99)	Florida Retirement System Verification of Out-of-State Teaching Service – a two-page document consisting of one page of instruction and a one-page form.
(h) <u>OSE-1</u> (Rev. 7/99)	Florida Retirement System Eligibility for In-State or Out-of-State Service – a one-page form.
(i) <u>WC-1</u> (Rev. 7/99)	Florida Retirement System Certification of Workers’ Compensation – a one-page form.
(j) <u>FC-1</u> (Rev. 7/04)	Florida Retirement System Pension Plan Salary-Certification – a two-page document consisting of one page of instruction and a one-page form.
(g) (k) <u>MF-2</u> (Rev. 7/06)	Florida Retirement System Pension Plan Statement of Military Eligibility to Purchase Military Service Under the Out-of-State Provisions – a two-page document consisting of one-page of information and one-page form.
(h) (t) <u>FR-23</u> (Rev. 5/05)	Florida Retirement System Pension Plan Notification of Reemployment or Suspension of Retirement Benefits – a one-page form.
(i) (m) <u>FR-23a</u> (Rev. 5/05)	Florida Retirement System Pension Plan Application to Reactivate Retirement Benefits – a one-page form.
(j) (n) <u>FR-30</u> (Rev. 7/04)	Florida Retirement System Pension Plan Verification for In-State or Out-of-State Service Credit – a three-page document consisting of one-page of instruction and a two-page form.
(k) (o) <u>FR-30a</u> (Rev. 7/04)	Florida Retirement System Pension Plan Out-of-State Employer Request – a one-page form.
(l) (p) <u>FRS-11o</u> (Rev. 7/06)	Florida Retirement System Pension Plan Option Selection for FRS Members – a one-page form.
(m) (q) <u>FST-11o</u> (Rev. 7/06)	Florida Retirement System Pension Plan Option Selection for TRS and SCOERS Members – a one-page form.
(n) (r) <u>DP-ELE</u> (Rev. 7/06)	Florida Retirement System Pension Plan Notice of Election to Participate in the Deferred Retirement Option Program (DROP) and Resignation of Employment – a two-page document with one-page of information and a one-page form.
(o) (s) <u>DP-11</u> (Rev. 7/06)	Florida Retirement System Pension Plan Application for Service Retirement and the Deferred Retirement Option Program (DROP) – a two-page form consisting of one page of instruction and a one page form.
(p) (t) <u>DT-11</u> (Rev. 7/06)	Teachers’ Retirement System Application for Service

- (q)(tt) DS-11 (Rev. 7/06) Retirement and the Deferred Retirement Option Program (DROP) – a two-page document consisting of two page of information and a one-page form.
- (r)(vv) DP-EXT (Rev. 7/07) State and County Officers’ and Employees’ Retirement System Application for Service Retirement and the Deferred Retirement Option Program (DROP) – a two-page document consisting of two page of instruction and a one-page form.
- (s)(ww) PRO-1 (Rev. 10/07) Florida Retirement System Pension Plan Extension of Deferred Retirement Option Program (DROP) for Specified K-12 Instructional Personnel – a one page form.
- (t)(xx) HIS-IP (7/04) Florida Retirement System Pension Plan (401(a) Plan) Pretax Direct Rollover/Transfer Form – a one-page form.
- (u)(yy) HIS IP-2 (7/04) Florida Retirement System (FRS) Application for Health Insurance Subsidy for Investment Plan Members – a two-page document consisting of one-page of instruction and a one-page form.
- (v)(zz) SA-1 (5/00) Florida Retirement System Health Insurance Subsidy Certification for Investment Plan Members – a one-page form.
- Division of Retirement Spousal Acknowledgement – a one-page form.

(3) Bureau of Benefit Payments.

FORM NO./REVISION DATE	TITLE/DESCRIPTION
(a) <u>FR-13</u> (Rev. 7/06)	Florida Retirement System Pension Plan Application for Disability Retirement – a four-page document consisting of two pages of instruction and a two-page form.
(b) <u>FR-13a</u> (Rev. 7/06)	Florida Retirement System Statement of Disability by Employer – a two-page form.
(c) <u>FR-13b</u> (Rev. 6/06)	Florida Retirement System Physician’s Report of Disability a two-page form.
(d) <u>TR-13</u> (Rev. 10/86)	Teachers’ Retirement System of Florida Application for Disability Retirement – a one-page form.
(e) <u>TR-13a</u> (Rev. 10/86)	Teachers’ Retirement System of Florida Member’s Statement of Disability – a one-page form.
(f) <u>TR-13b</u> (Rev. 10/86)	Teachers’ Retirement System of Florida Physician’s Report of Disability – a one-page form.
(g) <u>SR-13</u> (Rev. 9/71)	State and County Officers’ and Employees’ Retirement System Application for Disability Retirement – a one-page form.
(h) <u>SR-13a</u> (Rev. 9/71)	State and County Officers’ and Employees’ Retirement System Member’s Statement of Disability – a one-page form.
(i) <u>SR-13b</u> (Rev. 9/71)	State and County Officers’ and Employees’ Retirement System Physician’s Report of Disability – a one-page form.
(j) <u>FR-13e</u> (Rev. 7/06)	Florida Retirement System Retiree’s Report of Continuing Disability – a two-page form.
(k) <u>FR-13f</u> (Rev. 7/06)	Florida Retirement System Physician’s Report of Reexamination – a two-page form.
(l) <u>TR-13e</u> (Rev. 2/88)	Teachers’ Retirement System Retiree’s Report of Continuing Disability – a four page form.
(m) <u>TR-13f</u> (Rev. 7/81)	Teachers’ Retirement System Physician’s Report of Reexamination – a four-page form.
(n) <u>SR-13e</u> (10/86)	State and County Officers’ and Employees’ Retirement System Retiree’s Report of Continuing Disability – a four-page form.
(o) <u>SR-13f</u> (Rev. 7/81)	State and County Officers’ and Employees’ Retirement System Physician’s Report of Reexamination – a four-page form.

- (p) FRS-M81 (Rev. 7/01) Florida Retirement System Pension Plan Request for Refund – a one page form.
- (q) HIS-1 (Rev. 7/05) Florida Retirement System Pension Plan Health Insurance Subsidy Certification Form – a two-page document consisting of one page of instruction and a one-page form.
- (r) FST-12 (Rev. 12/02) Florida Retirement System Pension Plan Beneficiary Designation Form (Retired Members Only) – a one-page form.
- (s) JA-1 (Rev. 12/02) Florida Retirement System Pension Plan Change of Joint Annuitant Form (Retired Members Only) – a one-page form.
- (t) AAPS (Rev. 8/00) Florida Retirement System Pension Plan Affidavit Attesting to Payee Status – a one-page form.
- (u) FST-11b (Rev. 12/02) Florida Retirement System Pension Plan Application of Beneficiary for Monthly Retirement Benefits – a one-page form.
- (v) FST-11g (Rev. 12/02) Florida Retirement System Pension Plan Application of Beneficiary for Benefit Payment – a one-page form.
- (w) TR-11c (Rev. 12/02) Teachers’ Retirement System Application for Survivor Benefits – a two-page document consisting of one-page of information and a one-page form.
- (x) SRF-2 (Rev. 7/99) Florida Retirement System Pension Plan Student Report Form – a one-page form.
- (y) SRF-3 (Rev. 7/99) Florida Retirement System Pension Plan Authorization for Release of Information – a one-page form.
- ~~(z) SVF-1 (Rev. 7/99) Florida Retirement System Pension Plan Student Verification of Enrollment by Institution – a one page form.~~
- ~~(z)(aa) SVF-2 (Rev. 7/99) Florida Retirement System Pension Plan Affidavit Attesting to Eligibility – a one-page form.~~
- ~~(aa)(bb) DIS-1 (Rev. 4/06) Florida Retirement System Pension Plan Disclaimer of Benefits – a two-page document consisting of one-page of instruction and a one-page form.~~
- ~~(bb)(ee) JA-NUL (Rev. 7/99) Florida Retirement System Pension Plan Joint Annuitant Nullification Form – a one-page form.~~
- ~~(cc)(dd) FR-30b (Rev. 7/99) Florida Retirement System Pension Plan Verification for In-State or Out-of-State Service Credit – a two-page form.~~
- ~~(dd)(ee) DP-TERM (Rev. 6/06) Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Termination Notification – a one-page form.~~
- ~~(ee)(ff) DP-PAYT (Rev. 3/03) Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Selected Payout Method – a one-page form.~~
- ~~(ff)(gg) DP-JOINT (Rev. 9/99) Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Joint Annuitant Verification – a one-page form.~~
- ~~(hh) Rollover (Rev. 7/01) Florida Retirement System Pension Plan Direct Rollover Election Form – a one page form.~~
- ~~(gg)(ii) DP-12 (Rev. 2/06) Florida Retirement System Pension Plan Beneficiary Designation Form for the Alternate Payee of a DROP Participant – a one-page form.~~
- ~~(hh)(jj) SB-13b (Rev. 3/01) Florida Retirement System Pension Plan Physician’s Report – a two-page form.~~
- ~~(ii)(kk) FST-11so2 (Rev. 12/02) Florida Retirement System Pension Plan Application for Survivor Benefits – a one-page form.~~
- ~~(jj)(ll) DP-TEOC (9/01) Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Elected Officers’ Termination Notification – a one-page form.~~
- ~~(mm) DROLL (1/02) Florida Retirement System Pension Plan Beneficiary Direct Rollover Election Form – a one page form.~~
- ~~(kk)(nn) DIS-2 (Rev. 4/06) Florida Retirement System Pension Plan Disclaimer of Benefits~~

- (ll)(~~oo~~) DIS-3 (Rev. 4/06) – a two-page document consisting of one page of instruction and a one-page form.
Florida Retirement System Pension Plan Disclaimer of Benefits – a two-page document consisting of one page of instruction and a one-page form.
- (mm)(~~pp~~) DP-VOID (4/03) Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Void Form – a one-page form.
- (nn)(~~qq~~) SRA-1 Rev. (Rev. 12/04) Florida Retirement System Pension Plan Service Retirement Agreement – a one-page form.
- (oo)(~~rr~~) PR-13 (Rev. 7/06) Florida Retirement System Investment Plan Application for Disability Retirement – a four-page form consisting of two pages of instruction and a two-page form.
- (pp)(~~ss~~) PR-11o (7/04) Florida Retirement System Investment Plan Option Selection for FRS Members – a one-page form.
- (qq)(~~tt~~) DP-TEOC-2 Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Elected Officer DROP Termination Notification – a one-page form.
- (rr)(~~uu~~) DP-TEOC-3 Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Elected Officer Employment Termination Notification – a one-page form.
- (ss) SA-2 Florida Retirement System Investment Plan Spousal Acknowledgment Form for Disability Retirement – a one-page form.

(4) Administration.

FORM NO./REVISION DATE
SAPS (Rev. 10/02)

TITLE
Florida Retirement System Statement Attesting to Payee Status – a one-page form.

Rulemaking Authority 121.031 FS. Law Implemented 1.01, 112.215, 112.361, 112.363, 120.55, 121.011, 121.015, 122.021, 121.031(2), 121.051, 121.0515, 121.053, 121.081, 121.091, 121.111, 121.115, 121.1122, 121.121, 121.125, 121.35, 121.4501, 121.591, 122.08, 122.09, 215.28, 238.05, 238.06, 238.07, 689.21, 1012.01 FS. History–New 9-9-82, Amended 2-6-84, 11-6-84, 4-17-85, Formerly 22B-9.01, Amended 6-4-86, 12-5-90, Formerly 22B-9.001, Amended 1-4-93, 1-18-94, 4-26-94, 1-10-95, 11-2-95, 12-28-95, 3-12-96, 12-16-97, 10-14-98, 4-26-99, 1-24-00, 12-19-00, 2-6-01, 3-18-02, 10-23-05, 9-18-07, 5-22-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Sarabeth Snuggs, Director, Division of Retirement
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John P Miles, Secretary, Department of Management Services
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010, Vol. 36/24

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE NOS.:	RULE TITLES:
60S-11.001	Definitions
60S-11.002	Participation
60S-11.004	Benefits

PURPOSE AND EFFECT: The purpose and effect is to amend this rule chapter to correspond with statutory changes up through the 2010 Legislative session, delete obsolete language and make any needed technical changes.

SUMMARY: The amendments to this rule: explain the deferral of Deferred Retirement Option Program (DROP) initial eligibility date for an elected officer; expand the definition of “DROP Participation” period to include those certain K-12 instructional personnel with certain employers who may extend their DROP participation for up to 36 months beyond the 60 month DROP participation period in accordance with statute; delete the definition of “Instructional Personnel” as it is no longer applicable; clarify that a renewed member and an Investment Plan participant may not participate in DROP in accordance with statute; reflect the statutory changes to termination requirements, reemployment limitations and renewed membership resulting from Chapter 2009-209, Laws of Florida and incorporate by reference five revised Division forms and eight Division forms previously adopted under Rule 60S-9.001, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

No State of Estimated Regulatory Cost was prepared. The agency has determined that this rule shall not have an effect on small businesses as defined by Section 288.703, Florida Statutes, nor on small counties or small cities as defined by Section 120.52, Florida statutes.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The repeal of this rule is not expected to require legislative ratification pursuant to Section 120.541(3)(a)1., F.S., as there will be no impact on economic growth, job creation or employment, private-sector investment, or business competitiveness and no increase in regulatory costs.

Any person who wishes to provide information regarding the statement of estimated costs or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 121.031, 121.091(13) FS.

LAW IMPLEMENTED: 121.021, 121.091, 121.131, 1012.01 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE:

DATE AND TIME: November 4, 2011, 10:00 a.m., ET

PLACE: Division of Retirement of the Department of Management Services, Director's Conference Room, Suite 208, 1317 Winewood Blvd., Bldg 8, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706

THE FULL TEXT OF THE PROPOSED RULES IS:

60S-11.001 Definitions.

The definitions in Rule 60S-6.001, F.A.C., apply to this section unless otherwise expressly stated, and when used in this section, the following words and terms have the meaning indicated:

(1) **DEFERRED RETIREMENT OPTION PROGRAM (DROP)** – means a program, hereinafter referred to as the DROP, available to certain members who are eligible for retirement under the FRS Pension Plan, under which members effectively retire and have their retirement benefits accumulate, tax deferred, in the FRS Trust Fund while they continue covered employment for a limited time.

(2) **DROP ELIGIBILITY DATE** – means the first day of the month in which a vested member becomes eligible to elect to participate in DROP by virtue of reaching either his or her

normal retirement date or a deferred eligibility date, if a deferred eligibility date is applicable and elected by the member. Both the 12-month period during which the member may elect to participate in the DROP (except for instructional personnel as provided in subparagraph 60S-11.001(2)(b)4., F.A.C.) and the 60-month period that a member is allowed to participate in DROP begin on the member's DROP eligibility date.

(a) The normal retirement date is achieved when the vested member becomes age 62 (or age 55 for a Special Risk member); or when the member completes 30 years of service (or 25 years of Special Risk service). The member may either include or exclude optional service credit in determining the date on which 30 years of any service (or 25 years of Special Risk service) has been attained.

(b) A deferred eligibility date is achieved as follows:

1. For a member who has completed 30 years of service prior to age 57 (or 25 years of Special Risk service prior to age 52), the DROP eligibility date may be deferred to age 57, or age 52 for a Special Risk member.

2. For a member with dual normal retirement dates, the DROP eligibility date may be determined by the member as the first day of the month in which normal retirement is achieved in either class.

3. For an elected officer member who has reached normal retirement date during a term of office, the DROP initial eligibility date may be deferred to later in that term or during the first day of the month after the beginning date of the next succeeding term of office.

4. Effective February 1, 2003, for a member who satisfies the definition of instructional personnel for grades K-12 as adopted in Section 1012.01(2), F.S., (Chapter 2002-387, Laws of Florida), the DROP eligibility date may be deferred to the first of any month after the member first reaches normal retirement date.

(3) No change.

(4) **DEFERRED ELIGIBILITY DATE** – means the first day of any month to which a vested member is eligible to defer his or her election to participate in DROP by virtue of meeting the election deferral criteria set forth under rule subsection 60S-11.002(2), F.A.C.

(5) No change.

(6) **DROP PARTICIPATION PERIOD** – means the period of time a member participates in DROP, not to exceed 60 months. However, K-12 instructional personnel as defined in Section 1012.01(2)(a)-(d), F.S., who are employed by district school boards and authorized by the district school superintendent or K-12 instructional personnel as defined in Section 1012.01(2)(a)-(d), F.S., who are employed the Florida School for the Deaf and the Blind and authorized by the Board of Trustees of the Florida School for the Deaf and the Blind; or K-12 instructional personnel as defined in Section 1012.01(2)(a), F.S., who are employed by a developmental

research school and authorized by the school's director, or if the school has no director, by the school's principal, may participate in DROP for up to 36 months beyond the 60-month period with Division approval.

(7) No change.

(8) DROP END DATE – means the date DROP participation ceases and shall be the date termination of all employment occurs as defined in ~~paragraph subsection~~ 60S-6.001(69)(b)(63), F.A.C., except as provided in subsection 60S-11.004(10) F.A.C., for elected officers. The DROP end date shall be effective as of the date of the participant's designated deferred resignation, as stated on Form DP-ELE (Rev. 04/09), Florida Retirement System Pension Plan Notice of Election to Participate in the Deferred Retirement Option Program (DROP) and Resignation of Employment, herein adopted by reference; or if applicable on Form DP-EXT (Rev. 04/09), Florida Retirement System Pension Plan Extension of Deferred Retirement Option Program (DROP) For Specified K-12 Instructional Personnel, herein adopted by reference, or earlier if the participant terminates prior to the designated resignation date. The participant may cease participation in DROP prior to the designated resignation date only by satisfying the definition of termination as provided in ~~paragraph subsection~~ 60S-6.001(69)(b)(63), F.A.C.

(9) through (10) No change.

(11) ~~INSTRUCTIONAL PERSONNEL~~ — means a member who is employed by a District School Board in grades K-12, and satisfies the definition of instructional personnel as defined in Section 1012.01, F.S.

Rulemaking Specific Authority 121.031, 121.091(13) FS. Law Implemented 121.021, 121.091(13) FS. History—New 9-16-03, Amended _____.

60S-11.002 Participation.

(1) ELIGIBILITY – A member of the Florida Retirement System Pension Plan, the Teachers' Retirement System, or the State and County Officers' and Employees' Retirement System shall be eligible to participate in the DROP provided:

(a) The member attains normal retirement date as provided in paragraph 60S-4.003(1)(b) or (c), F.A.C., for Florida Retirement System Pension Plan members, or normal retirement date as specified in Chapter 238, F.S., for Teachers' Retirement System members or in Chapter 122, F.S., for State and County Officers' and Employees' Retirement System members;

(b) The member is employed in a regularly established position as defined in Rule 60S-6.001, F.A.C.; and

(c) The member is not a renewed member under Section 121.122, F.S., a member of the State Community College System Optional Retirement Program as provided in Section 121.051, F.S., the Senior Management Service Optional Annuity Program as provided in Rule Chapter 60V, F.A.C., or the State University System Optional Retirement Program as

provided in Rule Chapter 60U, F.A.C., or a participant in the Public Employee Optional Retirement Program as provided in Part II of Chapter 121, F.S., more commonly referred to as the FRS Investment plan as defined in Rule 60S-6.001, F.A.C.

(2) ELECTION TO PARTICIPATE – An eligible member must elect to participate in DROP within a 12-month period beginning on the member's DROP eligibility date as defined in Rule 60S-11.001, F.A.C., subject to one of the following conditions:

(a) A member who reaches his or her initial eligibility date based on years of service before reaching age 57, or age 52 for a Special Risk Class member, and is therefore eligible to defer the DROP election period as defined in subparagraph 60S-11.001(2)(b)1., F.A.C., may defer his or her election to join DROP to anytime during the period from the initial eligibility date through the end of the twelfth month after he or she attains age 57, or age 52 for a Special Risk Class member. ~~The member may participate for up to 60 months following the DROP begin date.~~

(b) A member may elect to include or exclude any optional service credit from the total service used to establish the DROP begin date when determining the DROP eligibility date.

(c) A member with dual normal retirement dates, due to an employment history in two different classes of membership with different normal retirement date and age requirements, may elect to participate in DROP within 12 months of attaining normal retirement date in either membership class.

(d) An elected officer who reaches his or her DROP eligibility date during a term of office may defer DROP participation until later in that term or during the next term in such office. ~~The officer must elect to participate in DROP within 12 months of the first day of the month following the first month of such succeeding term and may participate for no more than 60 months after such day or until the end of the term, whichever occurs first.~~

(e) Effective February 1, 2003, a member who is filling a K-12 instructional personnel position (K-12) as defined in Section 1012.01(2), F.S., ~~subsection 60S-11.001(11), F.A.C.,~~ may elect to participate in DROP at any time after reaching the initial eligibility date.

(3) APPLICATION TO PARTICIPATE –

(a) Member's Responsibility – It shall be the responsibility of the eligible member to make proper application to the Division to participate in DROP. To qualify for DROP, the member shall submit to the Division:

1. Form DP-ELE, Florida Retirement System Pension Plan Notice of Election to Participate in the Deferred Retirement Option Program (DROP) and Resignation of Employment, as adopted in subsection 60S-11.001(8), ~~Chapter 60S-9, F.A.C.,~~ which shall specify the DROP begin date and the DROP termination and resignation date, shall be acknowledged by the employer; If the member is simultaneously employed by more than one FRS employer, the member must submit a completed

DP-ELE form from each employer. Such form ~~and~~ shall be received by the Division no later than the end of the last month of the member's 12-month election period described in subsection 60S-11.002(2), F.A.C., or a later date if authorized in subsection 60S-11.002(2), F.A.C. Such termination and resignation date shall constitute a binding letter of resignation with the employer. Failure to complete and submit Form DP-ELE within the limitations of subsection 60S-11.002(2), F.A.C., will result in the member being ineligible for DROP participation.

2. Form DP-11 (Rev. 11/10), Florida Retirement System Pension Plan Application for Service Retirement and the Deferred Retirement Option Program (DROP); ~~or as adopted in Chapter 60S-9, F.A.C., Form DS-11 (Rev. 07/06), State and County Officers' and Employees' Retirement System Application for Service Retirement and the Deferred Retirement Option Program (DROP); or Form DT-11 (Rev. 07/06), Teachers' Retirement System Application for Service Retirement and the Deferred Retirement Option Program (DROP). All such forms are herein adopted by reference.~~ Such application ~~which~~ will be accepted by the Division up to 6 months in advance of the intended DROP begin date, and shall establish the member's effective date of retirement and DROP begin date. The effective date of retirement and the DROP begin date shall both be the first day of the month that the member indicates on his or her application as the date he or she wishes his or her DROP participation to begin, provided the Division receives the member's application no later than the close of business on the last day of the month in which the DROP begin date occurs. If a member fails to apply for DROP by the last day of the month in which his or her intended DROP begin date occurs, the effective date of retirement and the DROP begin date shall be the first day of the month in which the Division receives the member's application, provided the application is received within the 12-month election as provided in subsection 60S-11.002(2), F.A.C.

(b) Division's Responsibility – When the Division receives a member's application for DROP the Division will:

1. Acknowledge receipt of the member's application and advise him or her of any required information or documents that have not yet been received. Such information may include, but is not limited to, birth date verification as required by subsection 60S-4.0035(2), F.A.C., beneficiary designation as required by subsection 60S-11.004(2), F.A.C., option selection as required by Rule 60S-4.010, F.A.C., spousal acknowledgment if option 1 or 2 is selected as required by subsection 60S-4.010(9), F.A.C., any payments due the member's account for purchase of additional service credit or a written statement from the member that the member does not wish to claim such service credit, and certification of final salary and accumulated annual leave payments as defined in Rule 60S-6.001, F.A.C.

2. Establish the DROP begin date as defined in subsection 60S-11.001(5)(3), F.A.C.

3. Send a follow-up notice, reminding the member of any required information or documents that have not yet been received.

(c) Subject to timely submission of all required documents, the effective date of DROP participation shall be the effective date of retirement as defined in subsection 60S-6.001(25), F.A.C. The DROP participant may not modify or cancel his or her DROP participation ~~retirement benefit~~ after the last day of the month of the DROP begin date as defined in subsection 60S-11.001(5)(3), F.A.C. The DROP benefit shall be deemed cashed or deposited as required in subsection 60S-4.002(4), F.A.C., as of the first ~~last~~ day of the month following the DROP begin date.

(d) Cancellation of DROP Application – If all the required information and documents have not been received by the Division after 3 follow-up notices have been sent to the member, the Division will send the member a certified letter, advising the member that he or she has 21 days to provide such information or documents without loss of his or her DROP begin date. If the Division has not received all of the required information and documents after the 21 days specified in the certified letter, the Division will send a final agency action letter to the member advising the member that his or her application is canceled and that he or she must reapply to join DROP, if eligible, with a new effective DROP begin date to be established upon application.

Rulemaking Specific Authority 121.031, 121.091(13) FS. Law Implemented 121.021, 121.091, 1012.01 FS. History–New 9-16-03, Amended _____.

60S-11.004 Benefits.

(1) Calculation of Benefits.

(a) The retirement benefit of a member who has elected to participate in the DROP shall be calculated as provided in Rule 60S-4.004 or 60S-4.006, F.A.C.

(b) A member may choose to receive his or her accumulated annual leave payment, as defined in Rule 60S-6.001, F.A.C., and earned in accordance with agency policy, either upon beginning or terminating DROP.

1. If the member elects to receive this payment at the beginning of DROP, the payment, which must be certified to the Division, will be included in the calculation of the member's average final compensation. This early annual leave payment will be based on the hourly wage of the member at the time he or she begins participation in DROP. Any additional annual leave payment made at the DROP end date according to the employer's leave policy cannot be included in the retirement benefit, which was determined and fixed by law when the member elected to participate in DROP.

2. If the member elects to receive the annual leave payment upon termination of DROP and termination of employment with his or her employer, any accumulated annual leave payment made at that time cannot be included in the retirement benefit, which was determined and fixed by law when the member elected to participate in DROP.

(2) Beneficiary Designation – The beneficiary eligible to receive any accrued DROP benefits payable if the DROP participant dies before the completion of the DROP participation period will be the most recent joint annuitant or beneficiary designated to receive retirement benefits upon the death of the participant, as directed by the participant on the Application for Service Retirement and the Deferred Retirement Optional Retirement Program (Form DP-11), for FRS Pension Plan members as adopted in Rule 60S-11.003, F.A.C.; Form DS-11, for State and County Officers' and Employees' Retirement System members as adopted in Rule 60S-11.003, F.A.C.; or Form DT-11, for Teachers' Retirement System members as adopted in Rule 60S-11.003, F.A.C.; or Form FST-12, Florida Retirement System Pension Plan Beneficiary Designation Form (Retired Members Only) as adopted in subsection 60S-4.011(5), F.A.C. However, if the beneficiary or joint annuitant dies during the DROP participation period, the participant may designate a new beneficiary as provided in Rule 60S-4.011, F.A.C., as follows:

(a) If the participant retired under option 1 or 2, he or she may name a new beneficiary on Form FST-12 ~~Beneficiary Designation for Retired Members, adopted in Rule Chapter 60S-9, F.A.C.~~ Such beneficiary will be eligible for both the DROP benefits and any benefits provided by the option selected; or

(b) If the participant retired under option 3 or 4, he or she may name a new qualified joint annuitant or spouse on Form JA-1, Florida Retirement System Pension Plan Change of Joint Annuitant Form, adopted in Rule 60S-4.010 (8) Chapter 60S-9, F.A.C. Such beneficiary will be eligible for both the accrued DROP benefits and any continuing benefits; or

(c) If the participant retired under option 3 or 4, he or she may name, on Form FST-12, ~~Beneficiary Designation for Retired Members~~, a new beneficiary who will receive only the accrued DROP benefits. Such beneficiary will not replace the joint annuitant or spouse or be eligible for any continuing benefits.

(d) The participant may not name a beneficiary to receive DROP benefits who is different from the beneficiary designated to receive the retirement benefits.

(3) through (4) No change.

(5) Employment During DROP Participation.

(a) A DROP participant is considered a retiree as defined in subsection 60S-6.001(59)(53), F.A.C. However, participation in DROP does not alter the participant's employment status. Terms and conditions of employment, including, but not limited to, salary, insurance coverage, leave

accrual, and seniority status, do not change as a result of DROP participation. However, employment is not guaranteed during the DROP participation period.

(b) Employment continues during participation in DROP through the date the member preselected to stop participation in DROP, except that elected officers may continue in office after the DROP end date as provided in subsection (10) and (11) and certain instructional personnel, with approval of their employer and the Division may extend their DROP participation for up to 36 calendar months beyond the 60-month period as provided in sub-paragraph 5.

1. A DROP participant may change jobs or have more than one FRS employer, as long as the participant does not have a break in service as defined in subsection 60S-11.001(12)(8), F.A.C. If a break in service occurs, DROP participation will cease as of the end of the month in which no compensation is received for covered employment.

2. If the participant is employed by two employers upon beginning participation in DROP, the member and both employers must complete and submit Form DP-ELE, Florida Retirement System Pension Plan Notice of Election to Participate in the Deferred Retirement Option Program (DROP) and Resignation of Employment, as adopted by reference in subsection 60S-11.001(8), F.A.C. Only one employer is required to submit Form DP-11. A change or addition of a new employer after commencement of DROP only requires the employee and new employer to submit Form DP-ELE.

3. All employers are required to acknowledge on Form DP-ELE the participant's DROP termination date, which may be extended as provided in subparagraph 4., (but not beyond the maximum 60 months) and to acknowledge potential liability for any additional retirement contributions and interest required if the participant fails to timely terminate employment.

4. If a participant continues employment beyond the preselected DROP end date and prior to completion of the maximum 60 months allowed, a new form DP-ELE must be submitted to the Division prior to the initial preselected DROP end date with a new DROP end date acknowledged by both the participant and any affected employer.

5. DROP participants who are instructional personnel employed by the Florida School for the Deaf and the Blind and authorized by the Board of Trustees of the Florida School for the Deaf and the Blind, who are instructional personnel as defined in Section 1012.01(2)(a)-(d), F.S., in grades K-12 and authorized by the district school superintendent, or who are instructional personnel as defined in Section 1012.01(2)(a), F.S., employed by a developmental research school and authorized by the schools director, or if the school has no director, by the school's principal, may participate in DROP for up to 36 calendar months beyond the 60-month participation period with Division approval. To apply for extended DROP

participation, the eligible employee must submit to the division a completed Form DP-EXT, Florida Retirement System Pension Plan Extension of Deferred Retirement Option Program (DROPT) for Specified K-12 Instructional Personnel, as adopted in subsection 60S-11.001(8), F.A.C., prior to the DROPT termination date established for his or her initial 60-month DROPT participation period, but no earlier than six months prior to such date. The applicant will receive confirmation from the Division when the DP-EXT is received and when the application for extension is approved or denied.

(6) Disability benefits – DROPT participants shall not be eligible for disability benefits as described in Rule 60S-4.0073, F.A.C. ~~If a participant continues employment beyond the preselected DROPT end date and prior to completion of the maximum 60 months allowed, a new form DP-ELE must be submitted with a new DROPT end date acknowledged by both the participant and any affected employer.~~

(7) DROPT benefits shall be subject to the provisions of Rules 60S-4.014 and 60S-4.021, F.A.C., pertaining to assignment, execution, or attachment of benefits, and forfeiture of benefits, respectively. The Alternate Payee of a DROPT participant as a result of an approved Qualified Domestic Relations Order may designate a beneficiary on Form DP-12 (Rev. 02/06), Florida Retirement System Pension Plan Beneficiary Designation Form for the Alternate Payee of a DROPT Participant, herein adopted by reference, in the event the Alternate Payee predeceases the DROPT participant during the period of DROPT participation.

(8) Death Benefits.

(a) Eligibility to participate in the DROPT ends upon the death of the participant.

(b) A DROPT participant's survivors shall not be eligible to receive FRS in-line-of-duty death benefits as described in subsection 60S-4.008(4), F.A.C.

(c) If the participant dies on or after the DROPT begin date, but prior to the first monthly benefit being credited to his or her DROPT account, benefits shall be paid as follows:

1. According to the option selected by the participant at the time he or she entered DROPT; or

2. If the beneficiary qualifies as a joint annuitant and the participant had selected an option other than option 3, the beneficiary may choose to receive a benefit payable under option 3 with no payout of DROPT accrual, as though the participant had not applied for DROPT and had retired on the date of death; or

3. If no option had been selected by the participant, benefits shall be paid according to subsection 60S-4.008(3), F.A.C.

(d) Upon the death of a DROPT participant, the designated beneficiary shall be entitled to apply for and receive the accrued benefits in the DROPT as provided in subsection 60S-11.004(12)(44), F.A.C.

(9) Termination of Employment for Participants Other than Elected Officers Not in the Elected Officers' Class A DROPT participant, except for an elected officer participating in any membership class, not in the Elected Officers' Class must terminate employment on or before the preselected resignation date specified on Form DP-ELE or if applicable on Form DP-EXT and will be required submit to the Division a completed Form DP-TERM (Rev. 04/10), Florida Retirement System Pension Plan Deferred Retirement Option Program (DROPT) Termination Notification, herein adopted by reference, upon termination from DROPT. If a participant fails to terminate on or before the DROPT termination and resignation date:

(a) Retirement and DROPT participation are voided.

(b) The DROPT accumulation and any monthly retirement benefits received are forfeited.

(c) Membership in the member's retirement plan will be retroactively reestablished to the date the member initiated DROPT participation.

(d) Each employer is liable for payment of or eligible for a refund of, as applicable, the difference between the DROPT contributions paid and the required FRS retirement contributions for the applicable class of membership during the period of DROPT participation. Payment of additional contributions shall include 6.5 percent interest compounded annually. No interest will be paid on refunds to employers.

(e) Should the DROPT participant and his or her respective employer rescind the DROPT participant's resignation and employment shall continue beyond the rescinded resignation date, the DROPT participant and his or her respective employer shall notify the Division on Form DP-VOID (Rev. 04/03), Florida Retirement System Pension Plan Deferred Retirement Option Program (DROPT) Void Form, herein adopted by reference, no earlier than three months prior to, but no later than, the rescinded resignation date.

(10) Termination of Employment for Participants in the Elected Officers' Class – A member of the Elected Officers' Class participating in the DROPT may continue to serve in elected office upon reaching the DROPT end date as follows:

(a) For such officer who began participating in the DROPT prior to July 1, 2002:

1. Such officer shall be required to submit to the Division a completed Form DP-TEOC (09/01), Florida Retirement System Pension Plan Deferred Retirement Option Program (DROPT) Elected Officers' Termination Notification, herein adopted by reference, upon termination from DROPT.

~~2.1~~ Payment of the accumulated DROPT benefits shall be made as provided in subsection ~~(12)(44)~~.

~~3.2~~ Beginning the first month following the DROPT end date, monthly retirement benefits shall be paid to the officer in addition to compensation received as an elected officer.

4.3. The officer shall be a renewed member in the Elected Officers' Class as provided in subsection 60S-1.0055(4), F.A.C., effective the first day of the month following the DROP end date.

(b) For such officer who began participating in the DROP on or after July 1, 2002 through June 1, 2010:

1. Such officer shall be required to submit to the Division a completed Form DP-TEOC-2 (10/07), Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Elected Officer DROP Termination Notification, herein adopted by reference, upon termination from DROP.

2.4. No additional DROP benefits shall accumulate on behalf of the officer after the officer's DROP end date, however, cost-of-living adjustments and interest shall continue to accrue as provided in subsection (3) until the officer ceases holding office and satisfies the definition of termination provided in ~~paragraph subsection~~ 60S-6.001(69)(b)(63), F.A.C.

3.2. The officer shall not be a renewed member in the Elected Officers' Class and the employer shall not make retirement contributions on the officer's behalf after the officer's DROP end date, however, the employer shall submit health insurance subsidy contributions until the officer ceases holding elective office.

4.3. Monthly retirement benefit payments shall be paid to the officer beginning the first month after the officer ceases holding office and satisfies the definition of termination provided in ~~paragraph subsection~~ 60S-6.001(69)(b)(63), F.A.C.

5.4. After satisfying the definition of termination, such officer who is reemployed or reelected shall be subject to the reemployment limitations provided in Rule 60S-4.012, F.A.C.

(c) For such officer who began participating in the DROP on or after July 1, 2010:

1. Such officer shall be required to submit to the Division a completed Form DP-TEOC-2, Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Elected Officer DROP Termination Notification, as adopted by reference in paragraph (b), upon termination from DROP.

2. No additional DROP benefits or interest shall accumulate on behalf of the officer after the officer's DROP end date, however, cost-of-living adjustments shall continue to accrue as provided in subsection (3) until the officer ceases holding office and satisfies the definition of termination provided in paragraph 60S-6.001(69)(b), F.A.C.

3. The officer shall not be a renewed member in the Elected Officers' Class and the employer shall not make retirement contributions on the officer's behalf after the officer's DROP end date, however, the employer shall submit health insurance subsidy contributions until the officer ceases holding elective office.

4. Monthly retirement benefit payments shall be paid to the officer beginning the first month after the officer ceases holding office and satisfies the definition of termination provided in paragraph 60S-6.001(69)(b), F.A.C.

5. After satisfying the definition of termination, such officer who is reemployed or reelected shall be subject to the reemployment limitations provided in Rule 60S-4.012, F.A.C.

(11) Termination of Employment for Participants who are Elected Officers not in the Elected Officers' Class – Effective July 1, 2009, a member who is an elected officer participating in the DROP who is not in the Elected Officers' Class may continue to serve in elected office upon reaching his or her DROP end date as provided in subsection (10).

(12)(44) DROP Distribution – Upon the participant's termination of all employment as defined in paragraph 60S-6.001(69)(b)(63), F.A.C., the deferred resignation becoming effective, and the conclusion of the DROP participation period, or upon the death of the participant, or for an elected officer as provided in paragraph (10)(a) benefits shall be paid or distributed as follows:

(a) The previously determined normal monthly retirement benefits, plus applicable cost-of-living increases, will commence in accordance with the method of payment chosen by the participant at the time he or she began DROP participation; and

(b) The total accumulated DROP benefits will be distributed to the participant, or, if deceased, to the participant's joint annuitant or beneficiary as appropriate, provided the Division receives:

1. From the non-elected participant ~~only~~, the Form DP-TERM, Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Termination Notification, adopted in ~~subsection (10) Rule Chapter 60S-9, F.A.C.~~, signed by both the participant and employer or employers, verifying termination of employment, ~~and~~

2. From the elected officer participant, Form DP-TEOC-3 (10/07), Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Elected Officer Employment Termination Notification, herein adopted by reference, signed by both the participant and employer or employers, verifying termination of employment.

3. From the participant who chose Option 4, Form DP-Joint (Rev. 09/99), Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Joint Annuitant Verification, herein adopted by reference, signed by the participant verifying that his or her joint annuitant is still living and eligible for the full DROP Payout and the unreduced continuing monthly benefit.

4.2. From all participants, Form DP-PAYT (Rev. 05/11), Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Selected Payout Method, herein adopted by reference in ~~Rule Chapter 60S-9, F.A.C.~~, submitted by the participant, or if the participant has died, Form FST-11g, Florida Retirement System Pension Plan Application of Beneficiary for Benefit Payment, as adopted in paragraph

60S-4.008(1)(a), F.A.C., must be completed by his or her beneficiary, notifying the Division as to which of the following methods of payment he or she has chosen:

a. Lump sum (if the participant is deceased, a beneficiary, other than a spouse, must receive the lump sum distribution only),

b. Direct rollover, or

c. Combined partial lump sum and rollover.

A DROP participant or beneficiary who submits all required forms, but fails to elect a method of payment within 60 days of termination of DROP, will automatically receive a lump sum distribution, less applicable withheld taxes.

5.3. If a direct rollover or a partial lump sum and rollover are requested, Form DP-PAYT must be submitted to the Division. A participant who elects a rollover must have the rollover paid directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. Eligible retirement plans include:

a. An Individual Retirement Account as described in s. 408(a), Internal Revenue Code.

b. An Individual Retirement Annuity as described in s. 408(b), Internal Revenue Code, excluding an endowment contract.

c. A Qualified Plan – a stock bonus, pension, or profit sharing plan of an employer (both defined contribution and defined benefit plans) Trust established in accordance with s. 401(a), or 401(k), Internal Revenue Code, for the sole and exclusive benefit of employees or their beneficiaries, excluding designated 401(k) and 403(b) Roth Individual Retirement Accounts.

d. An Annuity Plan as described in s. 403(a), Internal Revenue Code, excluding a s. 403(b) plan or a s. 457 plan as specified in the Internal Revenue Code.

e. An eligible deferred compensation plan described in s. 457(b), Internal Revenue Code which is maintained by an eligible employer as described in s. 457(e)(1)(A), Internal Revenue Code.

f. An annuity contract as described in s. 403(b) of the Internal Revenue Code.

If the DROP participant dies and the surviving spouse wishes to roll over the DROP account, it can only be rolled over into an arrangement as cited in sub-subparagraphs a., ~~b., e., or f.~~ of this subparagraph as described in s. 402(c)(9), Internal Revenue Code. However, if the DROP participant dies and the surviving non-spouse beneficiary wishes to roll over the DROP account, it can only be rolled over into an Inherited Individual Retirement account arrangement as cited in sub-subparagraph a. of this subparagraph as described in s. 402(c)(11), Internal Revenue Code.

~~(13)(12)~~ Federal Limits – Benefits accumulating in the DROP are not subject to federal benefit limitations specified in s. 415 of the Internal Revenue Code, until DROP participation ends and the participant begins receiving his or her monthly

retirement benefits. The amount of the accumulated DROP at the time the member ceases DROP is amortized over the member's expected lifetime, in the manner required by the Internal Revenue Code, and the annualized value of the DROP account reduces the federal maximum annual benefit the member is entitled to receive.

~~(14)(13)~~ Reemployment After DROP – Except as otherwise provided in subsection (10):

(a) Upon the conclusion of DROP, the reemployment provisions specified in Rule 60S-4.012, F.A.C., are applicable to DROP participants.

~~(b)1. For DROP participants with DROP termination dates before July 1, 2010, reemployment~~ Reemployment with an employer during the first calendar month after concluding DROP shall result in cancellation of DROP and retirement. The member's DROP application shall be void, and he or she shall be required to repay all DROP and monthly retirement benefits received. The employer who reemploys such member is liable for payment of or eligible for a refund of, as applicable, the difference between the DROP contributions paid and the required FRS retirement contributions for the applicable class of membership during the period of DROP participation. Payment of additional contributions shall include 6.5 percent interest compounded annually. No interest will be paid on refunds to employers.

2. For DROP participants with DROP termination dates on or after July 1, 2010, reemployment with an employer during the first six calendar months after concluding DROP shall result in cancellation of DROP and retirement. The member's DROP application shall be void, and he or she shall be required to repay all DROP and monthly retirement benefits received. The employer who reemploys such member is liable for payment of or eligible for a refund of, as applicable, the difference between the DROP contributions paid and the required FRS retirement contributions for the applicable class of membership during the period of DROP participation. Payment of additional contributions shall include 6.5 percent interest compounded annually. No interest will be paid on refunds to employers.

Rulemaking Specific Authority 121.031, 121.091(13)(k) FS. Law Implemented 121.091, 121.131 FS. History–New 9-16-03, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarabeth Snuggs, Director, the Division of Retirement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John P. Miles, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010, Vol. 36/24

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE NO.: 61G1-17.003
 RULE TITLE: Professional Fees and Penalties for Individuals Licensed Both as a Registered Architect and Interior Designer

PURPOSE AND EFFECT: The Board proposes to repeal the rule because it duplicates what is otherwise provided for in Section 481.229(5)(b), Florida Statutes.

SUMMARY: The rule will be repealed due to the fact that it duplicates what is otherwise provided for in statute.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION:

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 481.2055 FS.

LAW IMPLEMENTED: 455.2281, 481.207, 481.221 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-17.003 Professional Fees and Penalties for Individuals Licensed Both as a Registered Architect and Interior Designer.

Rulemaking Specific Authority 481.2055 FS. Law Implemented 455.2281, 481.207, 481.221 FS. History—New 6-5-95, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 27, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-23.003
 RULE TITLE: Procedures for Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to modify language to update the Federal Information Processing Standard Publication and to provide the website address where the standards can be downloaded.

SUMMARY: The rule amendment will delete unnecessary language and to modify language to update the Federal Information Processing Standard Publication and to provide the website address where the standards can be downloaded.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

The Board determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 471.025(1), 668.006 FS.

LAW IMPLEMENTED: 471.025 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5268

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-23.003 Procedures for Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents.

(1) through (2) No change.

(3) A professional engineer utilizing an electronic signature to seal engineering work shall create a "signature" file that contains the engineer's name and PE number, a brief overall description of the engineering documents, and a list of the electronic files to be sealed. ~~Each file in the list shall be identified by its file name utilizing relative Uniform Resource Locators (URL) syntax described in the Internet Architecture Board's Request for Comments (RFC) 1738, December 1994, which is hereby adopted and incorporated by reference by the Board and can be obtained from the Internet Website: <http://ftp.isi.edu/in-notes/rfc1738.txt>. Each file shall have an authentication code defined as an SHA-1 message digest described in Federal Information Processing Standard Publication 180-3+ "Secure Hash Standard," October 2008 ~~1995 April 17~~, which is hereby adopted and incorporated by reference by the Board and can be obtained from the Internet Website: <http://csrc.nist.gov/publications/fips/fips180-3/fips180-3final.pdf> ~~<http://www.itl.nist.gov/div897/pubs/fip180-1.htm>~~. The licenses shall then create a report that contains the engineer's name and PE number, a brief overall description of the engineering documents in question and the authentication code of the signature file. This report shall be printed and manually signed, dated, and sealed by the professional engineer in responsible charge. The signature file is defined as sealed if the signature file's authentication code matches the authentication code on the printed, manually signed, dated and sealed report. Each electronic file listed in a sealed signature file is defined as sealed if the listed authentication code in the signature file matches the electronic file's computed authentication code.~~

Rulemaking Authority 471.025(1), 668.006 FS. Law Implemented 471.025 FS. History—New 8-18-98, Amended 9-4-05, 5-6-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers
 NAME AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-29.001
 RULE TITLE: Certification Definition, Procedures, Prohibitions

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and add new language to clarify the certifications procedures.

SUMMARY: The rule amendment will delete unnecessary language and delete unnecessary language and add new language to clarify the certifications procedures.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

The Board determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 471.008 FS.

LAW IMPLEMENTED: 471.025(3), 471.033(1)(j) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5268

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-29.001 Certification Definition, Procedures, Prohibitions.

(1) No change.

(2) When an engineer is presented with a certification to be signed and ~~or~~ sealed, he or she should carefully evaluate that certification to determine if any of the circumstances set forth in subsection (3) would apply. If any of these circumstances would apply, that engineer shall either: (a) modify such certification to limit its scope to those matters which the engineer shall ~~can~~ properly sign and ~~or~~ seal, or (b) decline to sign and seal such certification.

(3) No change.

Rulemaking Specific Authority 471.008 FS. Law Implemented 471.025(3), 471.033(1)(j) FS. History—New 1-16-91, Formerly 21H-29.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

NAME AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NO.: 61J1-2.001
RULE TITLE: Fees

PURPOSE AND EFFECT: The Board proposes the rule amendment to add an application and biennial fee for an appraisal management company.

SUMMARY: An application and biennial fee for an appraisal management company will be added to the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION:

A Statement of Estimated Regulatory Cost was prepared. During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was necessary, but that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that the rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

The following is a summary of the SERC:

- The estimated total of appraisal management companies' registration is 2,000 applicants at a one-time cost each of \$150.00 for the application fee and a recurring cost of \$300.00, the cost of the biennial fee, within five years, for a total of \$1,050.00.
- The rule will impact small appraiser offices if that small business operates in the capacity of an appraisal management company in Florida. It is estimated the potential for 2,000 registered appraisal management companies exist.
- Licensure of appraisal management companies and related fees were mandated by the Legislature and are not at the Board's discretion. The projections in the 2010 bill analysis included one-time costs to be paid by the Division of Real Estate of \$110,139 in development of licensing standards, \$15,000 recurring contract services, \$8,000 for rule making costs, and recurring expenses of \$20,000 per year for two additional board members when appointed by the Governor.
- There will be no additional cost to any other state and local government entities of implementing the proposed rule.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 215.34, 455.217, 455.2281, 455.271(6)(b), 475.6147, 475.615, 475.618, 475.6235(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juana Watkins, Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-2.001 Fees.

- (1) The application fee shall be as follows:

Registered Trainee Appraiser	\$50.00
Certified Residential Appraiser	\$100.00
Certified General Appraiser	\$100.00
<u>Appraisal Management Company</u>	<u>\$150.00</u>
- (2) The biennial fee shall be:

Registered Trainee Appraiser	\$175.00
Licensed Appraiser	\$175.00
Certified Residential Appraiser	\$175.00
Certified General Appraiser	\$175.00
<u>Appraisal Management Company</u>	<u>\$300.00</u>

(3) through (15) No change.

Rulemaking Authority 475.614 FS. Law Implemented 215.34, 455.217, 455.2281, 455.271(6)(b), 475.6147, 475.615, 475.618, 475.6235(3) FS. History—New 10-15-91, Amended 6-7-92, 5-6-93, Formerly 21VV-2.001, Amended 9-22-93, 7-5-94, 5-22-95, 8-20-96, 11-11-97, 10-1-98, 10-29-98, 1-7-99, 11-15-99, 11-10-03, 2-21-06, 9-21-06, 12-4-06, 3-13-07, 12-4-07, 7-17-11, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NO.: 61J1-7.0065
RULE TITLE: Signatures on Appraisal Report and Certification

PURPOSE AND EFFECT: The Board proposes the rule amendment to update signature requirements on an appraisal report and certification.

SUMMARY: Signature requirements on a appraisal report and certification will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION:

A Statement of Estimated Regulatory Cost was prepared. During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was necessary, but that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that the rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

The following is a summary of the SERC:

- A total of 6,900 licensed Certified Residential Appraisers and Certified General Appraisers; there are 874 registered trainee appraisers who may sign appraisal reports.
- There will be no impact to business competitiveness because all real estate appraisers across the country are required to follow the same set of standards as developed by the Appraisal Standards Board of the Appraisal Foundation.
- There will be no cost to the department for implementing the proposed rule.
- There will be no cost to any other state and local government entities of implementing the proposed rule.
- An estimated number of the small businesses that would be subject to the rule are more than 5,000.
- The rule amendment will not create a financial impact, but clarifies better definition of signature.
- No small county or small city will be impacted by the proposed rule.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 475.614, 475.613(2), 475.624(14) FS.

LAW IMPLEMENTED: 475.613(2), 475.624(14) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juana Watkins, Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-7.0065 Signatures on Appraisal Report and Certification.

(1) Each appraiser signing a certification of an appraisal report must sign the certification with the name that the licensee has registered with the Department. A signature may be represented by a handwritten mark or a digitized image controlled by a personal identification number, password, or other security feature. A facsimile signature may be either affixed by hand or electronically by computer software. An appraiser shall at all times maintain direct control of the appraiser's signature.

(2) An appraiser shall develop and maintain a written method by which his or her signature shall be affixed, for its security protection and the prohibition of practices that might discredit its use.

(3) An appraiser shall not grant blanket authority to another to affix the appraiser's signature to an appraisal report or other work performed by the appraiser. Any grant of permission to another to affix an appraiser's signature to an appraisal report or other work performed by the appraiser shall meet the following requirements:

(a) Be in writing;

(b) Extend only to one specific appraisal report; and

(c) Be maintained in the appraiser's work file.

Rulemaking Specific Authority 475.614 475.613(2), 475.624(14) FS. Law Implemented 475.613(2), 475.614 475.624(14) FS. History--New 12-4-06, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NO.: RULE TITLE:

61J1-9.001 Standards of Appraisal Practice

PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate the current version of the Uniform Standards of Professional Appraisal Practice into the rule.

SUMMARY: The current version of the Uniform Standards of Professional Appraisal Practice will be incorporated into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION:

A Statement of Estimated Regulatory Cost was prepared. During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was necessary, but that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that the rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

The following is a summary of the SERC:

- An estimated total of 7,774 appraiser licensees will be affected by the rule amendment.
- There will be no financial impact imposed because the rule is currently in effect as compliance with the Uniform Standards of Professional Appraisal Practice.
- There will be no additional cost to the department for implementing the proposed rule.
- There will be no cost to any other state and local government entities of implementing the proposed rule.
- An estimated number of the small businesses that would be subject to the rule are more than 5,000.
- The language of the rule is specific to the version of USPAP the real estate appraisers are required to follow. The most recent version has been made available online as a free document.
- No small county or small city will be impacted by the proposed rule.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice

RULEMAKING AUTHORITY: 475.613(2), 475.628 FS.

LAW IMPLEMENTED: 475.613(2), 475.628 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juana Watkins, Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-9.001 Standards of Appraisal Practice.

All registered, licensed, or certified appraisers shall comply with the 2010-2011 ~~2008-2009~~ Uniform Standards of Professional Appraisal Practice (USPAP), effective January 1, 2010, which is incorporated by reference.

Rulemaking Specific Authority ~~475.614 475.613(2), 475.628~~ FS. Law Implemented 475.613(2), 475.628 FS. History—New 8-29-06, Amended 3-24-09.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NOS.: RULE TITLES:

61J1-11.001

Definitions

61J1-11.002

Application for Registration as an Appraisal Management Company

PURPOSE AND EFFECT: The Board proposes the creation of new rules to define the address of record and authorized representatives for appraisal management companies and to establish the application process for licensure as an appraisal management company.

SUMMARY: Address of record and authorized representative for appraisal management companies will be defined. The application process for licensure as an appraisal management company will be established.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION:

A Statement of Estimated Regulatory Cost was prepared. During discussion of the economic impact of the rules at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was necessary, but that the rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that the rules will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

The following is a summary of the SERCs for both rules:

- The purpose of the promulgation of Rule 61J1-11.001 is for definitions only to provide clarity of the language of the statute. There is no cost associated with the rule.
- There will be no cost to the department for implementing proposed Rule 61J1-11.001.
- There will be no cost to any other state and local government entities of implementing the proposed rules.
- An estimated number of the small businesses that would

- be subject to Rule 61J1-11.001 are more than 5,000.
- No small county or small city will be impacted by the proposed rules.
- Pertaining to Rule 61J1-11.002, the Florida Legislature passed HB 303 into law and it became Chapter 2010-84 in 2010. The effective date of the law is July 1, 2011. Any costs associated with this rule are mandated by statute and not at board discretion.
- Pertaining to Rule 61J1-11.002, all estimated 2,000 appraisal management companies registered to conduct business in Florida will be required to comply with the fingerprint requirement at a cost of \$57.25 per applicant.
- Pertaining to Rule 61J1-11.002, the projections in the 2010 bill analysis included one-time costs paid by the Division of Real Estate of \$110,139 in development of licensing standards, \$15,000 recurring contract services, \$8,000 for rule making costs, and recurring expenses of \$20,000 per year for two additional board member appointments.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 455.275(1), 475.613, 475.6235, 475.624 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Juana Watkins, Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULES IS:

61J1-11.001 Definitions.

(1) “Address of record” means the mailing address of the appraisal management company.

(2) “Authorized representative” means any person who possesses the authority, directly or indirectly, to direct the management or policies of the appraisal management company, whether through ownership, by contract, or otherwise, as provided in Section 475.6235(2)(f), F.S.

Rulemaking Authority 475.614 FS. Law Implemented 455.275(1), 475.613, 475.6235, 475.624 FS. History–New _____.

61J1-11.002 Application for Registration as an Appraisal Management Company.

(1) An applicant for registration as an appraisal management company shall file a completed application on Form DBPR FREAB-1, “Application for Registering an Appraisal Management Company,” effective June 1, 2011. The

form, together with the instructions for completion, is incorporated herein by reference and may be obtained from the Board’s office at 400 West Robinson Street, Suite N801, Orlando, Florida 32801-1757 or from its Website located at http://www.myfloridalicense.com/dbpr/RE/documents/DBPRF_REAB1-. The application is complete when all items on the application form have been fully answered, all fees specified in subsection 61J1-2.001(1), F.A.C., paid, and all required documentation, certifications, electronic fingerprints through the Department’s vendor, explanations of answers, and other items specified in the form and its instructions submitted. Incomplete applications expire one year after the date any portion thereof is received.

(2) At the time of filing the application for registration, the applicant and all authorized representatives must sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice, as defined in Section 475.611(1)(q), F.S., and must indicate in writing that they understand the types of misconduct for which disciplinary proceedings may be initiated.

(3) The applicant and all authorized representatives must make it possible for the Board to determine whether they are competent and qualified to perform appraisal management services with safety to those with whom they may undertake a relationship of trust and confidence and the general public by disclosing all of the following:

(a) Whether they have ever been convicted or found guilty, or entered a plea of guilty or nolo contendere (no contest) to, regardless of adjudication, of a crime in any jurisdiction which directly relates to the activities of an appraiser, or which involves moral turpitude or fraudulent or dishonest conduct;

(b) Whether any civil proceedings are pending against them or whether any civil judgment has been rendered against them in a case wherein the pleadings charged them with fraudulent or dishonest dealings; and

(c) Whether they have had a registration, license, or certification to practice any regulated profession, business, or vocation revoked, suspended, disbarred or otherwise acted against by this or any other state, any nation, or any possession or district of the United States, whether any such proceeding or investigation is now pending, or whether they have had an application for such registration, licensure or certification to practice or conduct any regulated profession, business or vocation denied by this or any other state, any nation, or any possession or district of the United States.

(4) If an applicant and/or any authorized representative discloses information pursuant to subsection (3), above, they must submit certified copies of the following documents along with the application to be considered for registration: criminal judgments and sentences, civil judgments, civil decrees, and/or final orders by administrative and/or regulatory agencies pertaining to licensure. If such documents are no longer retained by a clerk of court or agency clerk or are no longer in

existence, then the applicant and/or any authorized representative must submit proof, such as a written affidavit or statement from a clerk of court or agency clerk, that said documents are no longer retained or are no longer in existence.

Rulemaking Authority 475.614 FS. Law Implemented 475.613, 475.6235, 475.624 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Real Estate Appraisal Board
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2011

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-204.800
 RULE TITLE: Federal Regulations Adopted by Reference

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments (OGC 10-3444) update the department’s adoption-by-reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) at 40 C.F.R. Parts 51, 52, 53 and 58 to incorporate federal requirements for regulation for particulate matter and sulfur dioxide.

RULEMAKING AUTHORITY: 403.8055 FS.
 LAW IMPLEMENTED: 403.061, 403.087, 403.8055 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO: Ms. Patricia E. Comer, Office of General Counsel, Department of Environmental Protection, MS 35, 3900 Commonwealth Boulevard, Tallahassee Florida 32399-3000.

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE ENVIRONMENTAL REGULATION COMMISSION, ADMINISTRATIVE ASSISTANT, DEP, MS 35, 3900 COMMONWEALTH BLVD., TALLAHASSEE, FL 32399-3000. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-204.800 Federal Regulations Adopted by Reference.
 All federal regulations cited throughout the air pollution rules of the Department are adopted and incorporated by reference in this rule. The purpose and effect of each such federal

regulation is determined by the context in which it is cited. Procedural and substantive requirements in the incorporated federal regulations are binding as a matter of state law only where the context so provides.

(1) Title 40, Code of Federal Regulations, Part 50, National Primary and Secondary Ambient Air Quality Standards.

(a) The provisions of 40 CFR Part 50, §§ 50.1 through 50.12, revised as of July 1, 2006; amended November 12, 2008, at 73 FR 66963, amended February 9, 2010, at 75 6473; § 50.13, promulgated October 17, 2006, at 71 FR 61143; § 50.14, promulgated March 22, 2007, at 72 FR 13559; amended May 22, 2007, at 72 FR 28612; amended October 6, 2008, at 73 FR 58042; amended November 12, 2008, at 73 FR 66963; amended May 19, 2009, at 74 FR 23307; amended February 9, 2010, at 75 FR 6473; amended June 22, 2010 at 75 FR 35520; § 50.15 promulgated, March 27, 2008, at 73 FR 16435; ~~and~~ § 50.16, promulgated November 12, 2008, at 73 FR 66963; and § 50.17, promulgated June, 22, 2010 at 75 FR 35520; are adopted and incorporated by reference.

(b) The following appendices of 40 C.F.R. Part 50, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. No change.
2. 40 C.F.R. Part 50, Appendix A-1, Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere (Ultraviolet Fluorescence Method), promulgated June 22, 2010, at 75 FR 35520.
3. through 18. renumbered 3. through 19. No change.
20. 40 C.F.R. Part 50, Appendix T, Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur (Sulfur Dioxide), promulgated June 22, 2010, at 75 FR 35520.

(2) Title 40, Code of Federal Regulations, Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

(a) The following subparts of 40 C.F.R. Part 51, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. No change.
2. 40 C.F.R. Part 51, Subpart I, Review of New Sources and Modifications; amended October 20, 2010, at 75 FR 64864.
3. through 5. No change.

(b) The following appendices of 40 C.F.R. Part 51, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 51, Appendix M, Recommended Test Methods for State Implementation Plans; amended September 21, 2006, at 71 FR 55119; amended May 29, 2008, at 73 FR 30775; amended December 21, 2010, at 75 FR 80118.

2. through 4. No change.

(3) Title 40, Code of Federal Regulations, Part 52, Approval and Promulgation of Implementation Plans. The following subparts of 40 C.F.R. Part 52, revised as of July 1, 2003, or later as specifically indicated, are adopted and incorporated by reference:

(a) 40 C.F.R. Part 52, Subpart A, General Provisions; amended June 13, 2007, at 72 FR 32526; amended July 16, 2007, at 72 FR 38787; amended October 20, 2010, at 75 FR 64864.

(b) No change.

(4) Title 40, Code of Federal Regulations, Part 53, Ambient Air Monitoring Reference and Equivalent Methods.

The following subparts of 40 C.F.R. Part 53, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

(a) 40 C.F.R. Part 53, Subpart A, General Provisions; amended October 17, 2006, at 71 FR 61235; amended June 22, 2010, at 75 FR 35520.

(b) 40 C.F.R. Part 53, Subpart B, Procedures for Testing Performance Characteristics of Automated Methods for SO₂, CO, O₃, and NO₂; amended June 22, 2010, at 75 FR 35520.

(c) 40 C.F.R. Part 53, Subpart C, Procedures for Determining Comparability Between Candidate Methods and Reference Methods; amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963; amended June 22, 2010, at 75 FR 35520.

(d) through (f) No change.

(5) No change.

(6) Title 40, Code of Federal Regulations, Part 58, Ambient Air Quality Surveillance.

(a) The following subparts of 40 C.F.R. Part 58, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. No change.

2. 40 C.F.R. Part 58, Subpart B, Monitoring Network, amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963; amended February 9, 2010, at 75 FR 6473; amended June 22, 2010, at 75 FR 35520.

3. through 6. No change.

(b) The following appendices of 40 C.F.R. Part 58, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 58, Appendix A, Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring; amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963; amended February 9, 2010, at 75 FR 6473; amended June 22, 2010, at 75 FR 35520.

2. No change.

3. 40 C.F.R. 58, Appendix D, Network Design Criteria for Ambient Air Quality Monitoring; amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963; amended February 9, 2010, at 75 FR 6473; amended June 22, 2010, at 75 FR 35520.

4. No change.

5. 40 C.F.R. Part 58, Appendix G, Uniform Air Quality Index (AQI) and Daily Reporting; amended March 27, 2008, at 73 FR 16435; amended June 26, 2009, at 74 FR 30469; amended February 9, 2010, at 75 FR 6473; amended June 22, 2010, at 75 FR 35520.

(7) through (27) No change.

PROPOSED EFFECTIVE DATE DECEMBER 1, 2011.

Rulemaking Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.8055 FS. History—New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99, 4-1-00, 10-1-00, 1-1-01, 8-1-01, 10-1-01, 4-1-02, 7-1-02, 10-1-02, 1-1-03, 4-1-03, 10-1-03, 1-1-04, 4-1-04, 7-1-04, 10-1-04, 1-1-05, 4-1-05, 7-1-05, 10-1-05, 1-1-06, 4-1-06, 7-1-06, 9-4-06, 9-6-06, 1-8-07, 1-31-07, 4-2-07, 5-31-07, 7-2-07, 10-1-07, 2-1-08, 7-1-08, 10-1-08, 10-6-08, 12-1-08, 11-18-09, 6-11-10, 7-1-10, 10-1-10, 12-30-10, 12-1-11.

DEPARTMENT OF JUVENILE JUSTICE

Residential Services

RULE NOS.:	RULE TITLES:
63E-7.002	Definitions
63E-7.003	Youth Admission
63E-7.006	Quality of Life and Youth Grievance Process
63E-7.009	Behavior Management
63E-7.010	Residential Case Management Services
63E-7.011	Delinquency Intervention and Treatment Services
63E-7.016	Program Administration

PURPOSE AND EFFECT: The rule amendments update and clarify conditions of confinement and treatment for delinquent youth in residential commitment programs.

SUMMARY: The rule amendments eliminate the use of behavior management units, clarify provisions for accessing legal services, and specify required delinquency intervention services for youth in residential programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The total, system-wide cost of the amendments for private providers and state-operated programs has been estimated at just over \$15,000. One of the Department's private providers of residential services qualifies as a "small business." It is estimated that the cost of complying with that portion of the amended rule requiring the revision of position descriptions will cost the impacted, small business provider \$150.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 985.64 FS.

LAW IMPLEMENTED: 985.601(3) FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, November 15, 2011, 10:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel's Conference Room 3223, Tallahassee, Florida. For information about participation by telephone, contact John Milla at (850)921-4129

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

63E-7.002 Definitions.

For the purpose of this rule chapter, the following words shall have the meanings indicated.

(1) through (4) No change.

(5) Attorney of Record – An attorney licensed to practice in the State of Florida who represents the youth on a previous or pending case, or an attorney who has entered into a signed agreement with the child’s parent or legal guardian to provide representation for the youth.

(5) through (89) renumbered (6) through (90) No change.

Rulemaking Authority 20.316, 985.64, 985.601(3)(a) FS. Law Implemented 985.601(3)(a), 985.03(44), 985.441(1)(b) FS. History–New 9-30-07, Amended 8-25-08, 7-8-09, 12-21-09, 5-4-10, 7-20-10, 12-20-10, _____.

63E-7.003 Youth Admission.

(1) No change.

(2) Admissions must arrive via detention services’ Statewide Offender Transportation Program (STOP) unless the youth resides in and will be placed in the same detention coverage area.

(2) through (8) renumbered (3) through (9) No change.

Rulemaking Specific Authority 985.64, 985.601(3)(a), 20.316 FS. Law Implemented 985.601(3)(a), 985.03(44), 985.441(1)(b) FS. History–New 9-30-07, Amended _____.

63E-7.006 Quality of Life and Youth Grievance Process.

(1) A residential commitment program shall establish the expectation that staff will treat youth with dignity and respect, and the program shall provide a positive quality of life for its youth by providing, at a minimum, the following:

- (a) Shelter;
- (b) Safety and security;
- (c) Clothing;
- (d) Food;

(e) Access to the Department of Children and Families’ central abuse hotline addressed in Chapter 39, F.S., or if the youth is 18 years or older, the department’s Central Communications Center that serves as the department’s incident reporting hotline;

- (f) Healthcare;
- (g) Mental health and substance abuse services;
- (h) Educational and prevocational or vocational services;
- (i) Opportunities for recreation and large muscle exercise;
- (j) Opportunities for expression of religious beliefs;
- (k) Visitation;

(l) Access to incoming mail and opportunities to send outgoing mail; ~~and~~

- (m) Telephone access; ~~and-~~
- (n) Opportunity to access the courts.

(2) through (5) No change.

(6) If a youth requests to contact an attorney of his or her choice, the facility must enable that process. This supervised process may be done via telephone or the internet. Once the youth identifies an attorney willing to represent the youth, that attorney is to be given attorney of record status. The facility is not required to provide an attorney for the youth.

~~(7)(6)~~ A residential commitment program shall establish written procedures specifying the process for youth to grieve actions of program staff and conditions or circumstances in the program related to the violation or denial of basic rights. These procedures shall establish each youth’s right to grieve and ensure that all youth are treated fairly, respectfully, without discrimination, and that their rights are protected.

(a) The procedures shall address each of the following phases of the youth grievance process, specifying timeframes that promote timely feedback to youth and rectification of situations or conditions when grievances are determined to be valid or justified.

1. Informal phase wherein the youth attempts to resolve the complaint or condition with staff on duty at the time of the grieved situation;

2. Formal phase wherein the youth submits a written grievance that requires a written response from a supervisory staff person; and

3. Appeal phase wherein the youth may appeal the outcome of the formal phase to the program director or designee.

(b) Program staff shall be trained on the program's youth grievance process and procedures.

(c) Program staff shall explain the grievance process to youth during their program orientation and shall post the written procedures throughout the facility for easy access by youth.

(d) The program shall provide grievance forms and accompanying instructions at locations throughout the facility so they are readily accessible to youth. When a youth requests assistance in filing a grievance, program staff shall assist the youth as needed.

(e) The program shall maintain documentation on each youth grievance and its outcome for at least one year.

Rulemaking Authority 985.64, 985.601(3)(a), 20.316 FS. Law Implemented 985.601(3)(a), 985.03(44), 985.441(1)(b) FS. History—New 12-24-07, Amended 7-20-10, _____.

63E-7.009 Behavior Management.

(1) through (4) No change.

~~(5) A moderate risk, high risk, or maximum risk residential commitment program with a bed capacity of 50 beds or more may designate a living unit within the facility as a behavior management unit. The purpose of a behavior management unit is to provide a delinquency intervention and treatment environment that provides opportunities for youth to make positive changes in behavior that will facilitate progress in his or her overall treatment in the program. Any behavior management unit shall be designed and operated as follows:~~

~~(a) The program shall document the following before a youth is placed in a behavior management unit:~~

~~1. The youth continues to demonstrate a pattern of maladaptive behavior that is highly disruptive to his or her responsivity to delinquency interventions and treatment, as well as other youths' ongoing rehabilitation, after the program has documented attempts to address the behavior using less restrictive alternative intervention strategies that have proven to be ineffective;~~

~~2. The youth is assessed and it is determined that he or she is not a danger to self and there are no identified mental health, physical health or other factors that contraindicate placement; and~~

~~3. At least two members of the youth's intervention and treatment team recommends the youth's placement in the behavior management unit, and the program director approves the placement or, in his or her absence, a program management level staff person designated by the program director grants approval.~~

~~(b) A behavior management unit's bed capacity shall not exceed 15. The unit may be secure with locking exit doors, but shall not be comprised of secure rooms wherein youth placed in the unit are kept in lock-down status. Sleeping rooms for youth shall have a minimum of 35 square feet of unencumbered space and shall meet the following specifications:~~

~~1. Solid core hardwood or metal door with a shatter resistant observation window;~~

~~2. Vents not easily accessible from the toilet, sink or bed that are covered with small mesh or a metal plate (holes no larger than 3/16 inch) with no edges exposed;~~

~~3. A mattress that meets national fire safety performance requirements and that is suitable for use on the floor or a suicide resistant bed;~~

~~4. Recessed light fixtures covered with shatter resistant material or alternative lighting reviewed and approved by the department;~~

~~5. Shatter resistant windows or, if glass windows that are not shatter resistant, covered with security rated screens or other materials that prevent access to the glass;~~

~~6. No electrical outlets; and~~

~~7. Electrical switches located outside the sleeping rooms or covered and secured if located inside the rooms.~~

~~(c) The staff to youth ratio in a behavior management unit shall be at least that provided in the general population and sufficient to operate the unit safely and securely. Staff whose regular assignment is to work in the behavior management unit shall be trained in implementation of the program's behavior management system, as well as specific intervention strategies as needed to implement the behavioral goals for each youth in the unit.~~

~~(d) The unit shall provide an intervention and treatment environment that focuses specifically on youths' maladaptive behavior and provides opportunities for the youth to make positive changes in behavior that facilitate progress in their overall rehabilitation. Additionally, the program shall provide basic rights, care and services to any youth in a behavior management unit consistent with the other sections of this rule chapter.~~

~~(e) Consistent with the cognitive capacity of each youth placed in the behavior management unit, staff shall engage the youth in a process as follows:~~

~~1. Staff shall discuss with the youth the pattern of maladaptive behavior that resulted in placement in the behavior management unit, as well as the consequences of behavior, alternative acceptable behaviors, harm caused to others as a result of the maladaptive behavior and possible reparations.~~

~~2. Staff shall advise the youth that release from the behavior management unit is based upon his or her achievement of short term goals established by the treatment team to address maladaptive behavior. Staff shall also explain~~

that making positive behavior changes while in the behavior management unit will help him or her progress in the overall program.

(f) Reviews and Release.

1. The youth's intervention and treatment team shall review the case within 72 hours of the youth being placed in a behavior management unit. If the team decides to continue the youth's placement in the unit, they shall develop short-term goals to assist the youth with accountability for behavior and changing or controlling maladaptive behaviors. The youth shall be present when the intervention and treatment team meets and be given an opportunity to give input.

2. Release from the behavior management unit is contingent upon a youth's completion of his or her behavioral goals. While the youth is in the behavior management unit, the intervention and treatment team may revise the youth's behavioral goals to assist him or her in changing the targeted pattern of maladaptive behavior and facilitate release from the unit.

3. If the youth remains in the behavior management unit for 14 days, the intervention and treatment team shall review the youth's progress in attaining the short-term goals to determine whether the youth is to be released or placement continued.

4. Every 72 hours that the youth remains in the behavior management unit after the 14-day review, the intervention and treatment team shall review the youth's progress toward meeting his or her behavioral goals and recommend continued placement or release. At this stage, continued placement requires approval of the program director or, in his or her absence, a management-level staff person designated by the program director.

5. If possible, the youth shall participate in all intervention and treatment team reviews, but if not, a representative of the team shall discuss review findings with the youth.

6. The program director or, in his or her absence, a management-level staff person designated by the program director, may approve release of a youth from the behavior management unit at any time it is determined that continued placement would be detrimental to the youth's well-being.

(g) Mechanical restraints may be used in the behavior management unit only as a last resort and any use shall be pursuant to Rule 63H-1.005, F.A.C., and documented pursuant to Rule 63H-1.007, F.A.C.

(h) A program with a behavior management unit shall establish a system of documentation and record maintenance to include, at a minimum, the following:

1. Ongoing log of placements, including the name of each youth placed, date of placement, date of release, and the name of the program director or designee who approved the placement;

2. Documentation of intervention and treatment team meetings and reviews while the youth is in the behavior management unit, including initial short-term goals and any subsequent modifications, review date and signatures of participants, description of the youth's progress, and recommendations; and

3. Documentation of the program director's or his or her designee's approval of a recommendation for continued placement resulting from any 72-hour review conducted after the youth's 14th day in the unit.

Rulemaking Authority 985.64, 985.601(3)(a), 20.316 FS. Law Implemented 985.601(3)(a), 985.03(44), 985.441(1)(b) FS. History—New 12-24-07, Amended 8-25-08, 5-4-10, _____.

63E-7.010 Residential Case Management Services.

(1) through (5) No change.

(6) Performance Plan. A residential commitment program shall ensure that each youth has a performance plan with individualized delinquency intervention goals to achieve before release from the program. Based on the findings of the initial assessment of the youth, the intervention and treatment team, including the youth, shall meet and develop the performance plan within 30 days of the youth's admission.

(a) The performance plan, developed to facilitate the youth's successful reintegration into the community upon release from the program, shall include goals that:

1. Specify delinquency interventions with measurable outcomes for the youth that will decrease criminogenic risk factors and promote strengths, skills, and supports that reduce the likelihood of the youth reoffending;

2. Target court-ordered sanctions that can be reasonably initiated or completed while the youth is in the program; and

3. Identify transition activities that are consistent with Rule 63B-1.006, F.A.C., and begin early in the youth's placement to address barriers to successful release targeted for the last 60 days of the youth's anticipated stay in the program.

(b) For each goal, the performance plan shall specify its target date for completion, the youth's responsibilities to accomplish the goal, and the program's responsibilities to enable the youth to complete the goal.

(c) To facilitate the youth's rehabilitation or promote public safety, the intervention and treatment team may revise the youth's performance plan based on the RPACT reassessment results, the youth's demonstrated progress or lack of progress toward completing a goal, or newly acquired or revealed information. Additionally, based on the transition conference addressed in paragraph 63E-7.010(10)(a), F.A.C., the intervention and treatment team shall revise the youth's performance plan as needed to facilitate transition activities targeted for completion during the last 60 days of the youth's stay in the program.

(d) The youth, the intervention and treatment team leader, and all other parties who have significant responsibilities in goal completion shall sign the performance plan, indicating their acknowledgement of its contents and associated responsibilities. The program shall file the original signed performance plan in the youth's official youth case record and shall provide a copy to the youth. Within 10 working days of completion of the performance plan, the program shall send a transmittal letter and a copy of the plan to the committing court, the youth's JPO, the parent or legal guardian, and the DCF counselor, if applicable.

1. Electronic transmittal of the performance plan to the youth's JPO and DCF counselor is acceptable.

2. If the parent or guardian did not participate in the development of the performance plan and if the youth is a minor and not emancipated as provided in Section 743.01 or 743.015, F.S., or is over 18 years of age and incapacitated as defined in Section 744.102(12), F.S., the program shall enclose an additional copy of the plan's signature sheet and shall request in the transmittal letter that the parent or guardian acknowledge receipt and review of the plan by signing the signature sheet and returning it to the program. Any signature sheet signed by the parent or guardian and returned to the program shall be attached to the youth's original performance plan.

(7) through (12) No change.

Rulemaking Authority 985.64 FS. Law Implemented 985.601(3)(a) FS. History—New 12-9-08, Amended 12-21-09, 5-4-10, Amended 7-20-10, _____.

63E-7.011 Delinquency Intervention and Treatment Services.

A residential commitment program shall provide delinquency intervention and treatment services that are gender-specific pursuant to Section 985.02, F.S., and that focus on preparing youth to live responsibly in the community upon release from the program. The program shall design its services and service delivery system based on the common characteristics of its primary target population, including age, gender, and special needs, and their impact on youths' responsivity to intervention or treatment. However, in accordance with Rule 63E-7.010, F.A.C., the program shall individualize and coordinate the provision of delinquency intervention and treatment services based on each youth's prioritized risk and needs as identified through the RPACT and document services delivered in the youth's individual management record.

(1) No change.

(2) Delinquency Intervention Services.

(a) For each youth in its care, a residential commitment program shall implement a delinquency intervention model or strategy that is an evidence-based practice, promising practice

or a practice with demonstrated effectiveness as defined in Rule 63E-7.002, F.A.C., that addresses a priority need identified for that youth.

(b) Education and work experience shall be considered by the Director of Programming when determining staff delivery of delinquency intervention services.

(c) A staff person whose regularly assigned job duties include implementation of a specific delinquency intervention model, strategy or curriculum shall receive training in its effective implementation.

(d) Residential commitment programs shall assure structured, planned programming or activities at least 60% of a youth's awake hours. Included in those activities, the ~~A residential commitment~~ program shall provide delinquency intervention services that include, at a minimum, the following:

1. Educational Services and Career and Vocational Programming. Educational services shall be provided pursuant to Section 1003.52, F.S., the cooperative agreement between the applicable school district and the department as referenced in Section 1003.52(13), F.S., and any applicable provisions of the residential provider's contract with the department. Career and vocational programming services shall be provided pursuant to Chapter 63B-1, F.A.C., and any applicable provisions of the residential provider's contract with the department. The program shall make relevant facility training available to the educational and vocational staff, including program orientation, facility safety and security procedures, the program's behavior management system, and other topics that the program deems necessary to promote coordination of services, as well as safety and security.

2. Life and Social Skill Competency Development. The program shall provide interventions or instruction that focus on developing life and social skill competencies in youth. For purposes of this rule chapter, life skills are those skills that help youth to function more responsibly and successfully in everyday life situations, including social skills that specifically address interpersonal relationships. Non-clinical staff may implement life and social skills interventions or instruction under the supervision of the Director of Programming except when the instructional materials are specifically designed for use by clinical staff or when the skill training is delivered in response to a youth's treatment plan, thereby requiring a clinician's implementation. In a DJJ facility or program designated for Medicaid behavioral health overlay services (BHOS) or Medicaid fee-for-service, individuals providing Medicaid funded life skills or social skills shall meet the specific education and training requirements established by the Agency for Health Care Administration (AHCA), as may be found in the Florida Medicaid Community Behavioral Health Services Coverage and Limitations Handbook.

a. The program shall provide life and social skills intervention services that address, at a minimum, identification and avoidance of high-risk situations that could endanger self or others, communication, interpersonal relationships and interactions, non-violent conflict resolution, anger management, and critical thinking including problem-solving and decision-making.

b. Direct care staff shall model prosocial behaviors for youth throughout the course of each day in the program, reinforce delinquency interventions, and guide and re-direct youth toward prosocial behaviors and positive choices. Additionally, staff shall engage youth in constructive dialogue to peacefully resolve conflict when it occurs or, if imminent safety and security issues delay intervention to resolve the conflict, as a follow-up process after safety and security are restored.

3. Impact of Crime Awareness Activities. The program shall provide activities or instruction intended to increase youths' awareness of and empathy for crime victims and survivors and increase youths' personal accountability for their criminal actions and harm to others. These activities or instruction shall be planned or designed to:

a. Assist youth to accept responsibility for harm they have caused by their past criminal actions, challenging them to recognize and modify their irresponsible thinking, such as denying, minimizing, rationalizing, and blaming victims;

b. Teach youth about the impact of crime on victims, their families and their communities;

c. Expose youth to victims' perspectives through victim speakers, in person or on videotape or audiotape, or through victim impact statements, and engage youth in follow-up activities to process their reactions to each victim's accounting of how crime affected his or her life; and

d. Provide opportunities for youth to plan and participate in reparation activities intended to restore victims and communities, such as restitution activities and community service projects.

4. Community Service Projects. The program shall engage youth in community service projects as learning experiences that promote competency development in youth and provide opportunities for them to give back to the community, such as projects that benefit less fortunate or victimized persons. If youth are restricted to the confines of the residential facility pursuant to subsection 63E-7.013(19), F.A.C., the program shall engage them in structured activities that can be accomplished on-site at the program while benefitting the community. Through collaborative community partnerships, the program shall identify service projects that are needed and valued by the community. Although program staff shall be responsible for the direct supervision of youth while engaged in a community service project, the program shall ensure that any community member identified to sponsor or oversee a project serves as a positive role model while providing

guidance needed for youth to successfully complete the project. In order for youth to understand the value of community service, staff shall provide opportunities for youth to give input into the selection of a community service project, involve youth in planning for the project, and de-brief with youth after completion of the project to process what they learned and how the community was benefited.

5. Recreation and Leisure Activities. The program shall provide a range of supervised, structured indoor and outdoor recreation and leisure activities for youth. These activities shall be based on the developmental levels and needs of youth in the program, as well as youths' input about their preferences and interests in various activities. The program shall offer recreation and leisure activities requiring varying degrees of mental and physical exertion, such as board games, creative arts, sports, and physical fitness activities. Activities shall be planned for youths' exposure to a variety of leisure and recreation choices, exploration of interests, constructive use of leisure time, and social and cognitive skill development, as well as to promote creativity, teamwork, healthy competition, mental stimulation, and physical fitness.

a. When engaging youth in active recreation and physical fitness activities, the program shall take the precautionary measures necessary to prevent over-exertion, heat stress, dehydration, frostbite, hypothermia, and exacerbation of existing illness or physical injury.

b. When planning for and engaging youth in active recreation and physical fitness activities, the program shall accommodate youths' limitations due to physical disabilities.

c. The program shall provide each youth with the opportunity to engage in large muscle exercise at least one hour daily. However, a youth shall not engage in such exercise when prohibited by medical contraindications or restrictions documented by a licensed healthcare professional or when a youth is exhibiting signs and symptoms of illness or physical injury pending a licensed healthcare professional's determination as to the necessity for medical restrictions. Additionally, a youth shall be prohibited from large muscle exercise when he or she is temporarily separated from the general population, including when placed on controlled observation or room restriction status pursuant to Rule 63E-7.013, F.A.C. However, if a youth is restricted to a room, the program shall give the youth an opportunity for large muscle exercise as soon as is reasonably possible after the youth is reintegrated into the general population.

d. The program director shall ensure development and implementation of written procedures that establish the conditions, content, and supervision necessary for the use of books and other leisure reading materials, television programming, videos, movies, and video games in the program. Except for academic classroom materials approved by educational personnel, program staff shall screen or preview the content of books and other reading materials, television

programming, videos, movies, and video games to prevent youth's access to content that promotes violence, criminal activity, sexual activity, or abuse. Program staff shall not allow youth to view any television program, video, or movie that is rated above PG-13 unless it is previewed and pre-approved by the program director or his or her designee.

6. Gang Prevention and Intervention Strategies. Consistent with subsection 63E-7.013(8), F.A.C., a residential commitment program shall implement gang prevention and intervention strategies when youth are identified as being a criminal street gang member, are affiliated with any criminal street gang, or are at high risk of gang involvement. Identification of youth to participate in gang prevention or intervention activities shall be based on information obtained through the program's screening, assessment and classification processes, as well as gang-associated behaviors exhibited or the youth's expressed interest or intent while in the program.

(e) Rehabilitative Planning and Follow-up Requirements for Off-Campus Activities. A residential commitment program shall ensure that off-campus activities addressed in this subsection are purposeful, deliberately planned, and related to the rehabilitation of the participating youth. Programs shall comply with eligibility, risk classification, notification and approval, supervision, and other security requirements related to off-campus activities specified in subsection 63E-7.013(19), F.A.C. Additionally, the program shall comply with the following rehabilitative planning and follow-up requirements for youth participating in supervised off-campus activities, such as community service projects, field excursions and other transition-related activities, and unsupervised temporary release activities, such as community employment, or day activities and home visits with youths' parents or guardians. However, the following requirements are not mandatory for supervised recreational off-campus activities earned by youth as incentives in accordance with the program's behavior management system.

1. A participating youth shall have specific, written goals or objectives, consistent with his or her performance plan and transition goals, to accomplish during the above-listed off-campus activities. For a home visit, the youth's home visit goals shall be included on the Home Visit Plan/Notification form. The program shall send the form to the youth's JPO, the youth's post-residential services counselor, if assigned, the youth's parent or guardian as an attachment to a transmittal letter explaining their responsibilities for providing supervision and support during their child's home visit, and the committing court as an attachment to the Home Visit Plan Approval form. When the program sends this form to the committing court, the program shall copy the youth's parent or guardian, the youth's JPO, and the youth's post-residential services counselor, if assigned.

2. After completion of an off-campus activity, program staff shall de-brief with participating youth to process what they learned from the experience, as well as how they performed during the activity, including successes, challenges, and if applicable, alternative behaviors or actions that could have resulted in more positive outcomes. The youth's treatment team shall use information about the youth's performance during off-campus activities when reviewing the youth's overall progress and when planning future off-site and transition activities for the youth. Therefore, the program shall solicit feedback on a youth's performance from the employer of a youth participating in community employment, the community member overseeing a community services project, and the parent or guardian after supervising their child during a day activity or home visit.

(3) No change.

Rulemaking Authority 985.64 FS. Law Implemented 985.601(3)(a) FS. History--New 12-9-08, Amended 12-21-09, 5-4-10, 7-20-10, _____

63E-7.016 Program Administration.

(1) A residential commitment program director shall be accountable for the daily operation of the program, as well as ongoing program planning and evaluation to ensure safety, security, and effectiveness of services provided to youth.

(2) A residential commitment program's mission statement shall be consistent with the department's mission and principles of the restorative justice philosophy.

(3) A residential commitment program's written description shall, at a minimum, address the following:

(a) The program's delinquency intervention strategy and, if specialized services are provided, the treatment model;

(b) Services the program provides; and

(c) The program's service delivery system.

(4) A residential commitment program director shall ensure provisions for staffing that, at a minimum, address the following:

(a) Level 2 pre-employment screening requirements pursuant to Chapter 435 and Section 985.644(5), F.S.;

(b) Staff retention planning that includes steps to minimize turnover and improve employee morale;

(c) Maintenance of an organizational chart that reflects spans of control and lines of authority and specifies the job title, and the primary function if not inherent in the job title, of each program staff and overlay service provider;

(d) Staffing schedules that ensure coverage across shifts and a system for accessing additional staff coverage as needed;

(e) Position descriptions for each staff member that specify required qualifications, job functions or duties, and performance standards. Staff's implementation of the program's behavior management system, and delivery of delinquency intervention services are to be identified as job functions for applicable staff.

(f) A system for evaluating staff at least annually based on established performance standards;

(g) Systems of communication to keep staff informed and give them opportunities for providing input and feedback pertaining to operation of the program;

(h) A dress code for staff that promotes professionalism, safety, and positive role modeling for youth; and

(i) A code of conduct for staff that clearly communicates expectations for ethical and professional behavior, including the expectation for staff to interact with youth in a manner that promotes their emotional and physical safety.

(5) through (16) No change.

Rulemaking Authority 985.64 FS. Law Implemented 985.601(3)(a) FS. History--New 4-13-08, Amended 8-25-08, 12-21-09, 5-4-10, 7-20-10, _____

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Laura Moneyham, Assistant Secretary of Residential Services
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Wansley Walters, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 12, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 17, 2010

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-1.007
 RULE TITLE: List of Approved Forms; Incorporation

PURPOSE AND EFFECT: The proposed rule amendments are intended to incorporate the revised application form for dispensing physicians and to delete unnecessary forms from the rule based upon the annual rules review.

SUMMARY: The proposed rule amendments incorporate the revised physician dispensing registration form into the rule. Additionally, the amendments delete unnecessary forms from the rule based upon the annual rules review.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION:

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.013, 456.0276, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3137, 458.3145, 458.315(2), 358.317, 358.319, 458.320(8), 458.321(2), 358.345(3), (8), 458.347(13), 458.3475, 358.348(1)(a), 458.351(6) FS.

LAW IMPLEMENTED: 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.3475, 458.348, 458.351, 465.0276 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joy A. Tootle, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-1.007 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office by writing to the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753, or by telephoning (850)245-4131:

- (1) through (3) No change.
- ~~(4) DH-MQA 1013, entitled "Unlicensed Physician Hospital Reporting Form," (12/00).~~
- ~~(4)(5) DH-MQA 1014, entitled "Financial Responsibility Form," (12/06).~~
- ~~(5)(6) DH-MQA 1015, entitled "Renewal Notice," (1/00).~~
- ~~(7) DH-MQA 1016, entitled "Voluntary Relinquishment Form," (1/00).~~
- ~~(8) HQA/FORM 390, entitled "Complaint Form," (10/95).~~
- ~~(9) DH-MQA 1030, entitled "Physician Office Adverse Incident Report," (rev. 12/05).~~
- ~~(10) DH-MQA 1031, entitled "Florida Board of Medicine Office Surgery Registration Form," (4/04).~~
- ~~(6)(11) DH-MQA 1032, entitled "Board of Medicine Application Materials for Initial Registration and Renewal of Intern/Resident/Fellow and House Physician," (10/09).~~
- ~~(7)(12) DH-MQA 1069, entitled "ARNP/EMT/Paramedic Protocol Form," (9/04).~~
- ~~(8)(13) DH-MQA 1070, entitled "Physician Dispensing Registration," (7/11) (8/10).~~
- ~~(9)(14) DH-MQA 1072, entitled "Board of Medicine Medical Faculty Certificate For Allopathic Physicians," (10/09).~~

~~(10)(15)~~ DH-MQA 1076, entitled "Extension of Temporary Licensure Application," (2/04).

~~(11)(16)~~ DH-MQA 1079, entitled "Board of Medicine Temporary Certificate to Practice Medicine for Educational Purposes For Allopathic Physicians," (10/09).

~~(12)(17)~~ DH-MQA 1087, entitled "Application for Licensure as an Anesthesiologist Assistant," (10/09).

~~(13)(18)~~ DH-MQA 1093, entitled "Anesthesiologist Assistant Licensure Renewal Form," (8/06).

~~(14)(19)~~ DH-MQA 1088, entitled "Anesthesiologist Assistants Financial Responsibility," (7/04).

~~(15)(20)~~ DH-MQA 1090, entitled "Anesthesiologist Assistant Protocol," (10/04).

(21) DH-1267, entitled "Application for Refund," (1/99).

~~(16)(22)~~ DH-MQA 2000, entitled "Application for Licensure as a Physician Assistant," (10/09).

~~(17)(23)~~ DH-MQA 2001, entitled "Application for Licensure as Prescribing Physician Assistant," (8/10).

~~(18)(24)~~ DH-MQA 2002, entitled "Application for Changes to Licensure as Prescribing Physician Assistant," (8/10).

~~(19)(25)~~ DH-MQA 2004, entitled "Supervision Data Form," (8/10).

Rulemaking Authority 456.013, 456.0276, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3137, 458.3145, 458.315(2), 358.317, 358.319, 458.320(8), 458.321(2), 358.345(3), (8), 458.347(13), 458.3475, 358.348(1)(a), 458.351(6) FS. Law Implemented 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.3475, 458.348, 458.351, 465.0276 FS. History--New 4-17-01, Amended 11-20-01, 8-13-02, 11-10-02, 3-19-03, 6-4-03, 11-17-03, 4-19-04, 1-31-05, 9-29-05, 6-29-06, 12-26-06, 4-2-07, 6-25-08, 1-18-09, 3-17-09, 5-20-09, 10-7-09, 1-7-10, 2-2-10, 12-6-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 23, 2011

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-4.029
RULE TITLE: Registration as a Dispensing Physician; Delegation of Dispensing to Prescribing Physician Assistants

PURPOSE AND EFFECT: The proposed rule amendment is intended to incorporate the revised Physician Dispensing Registration form into the rule.

SUMMARY: The proposed rule amendment incorporates the revised Physician Dispensing Registration form into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION:

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 458.309, 465.0276 FS.

LAW IMPLEMENTED: 465.0276, 458.347(4)(e) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joy A. Tootle, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-4.029 Registration as a Dispensing Physician; Delegation of Dispensing to Prescribing Physician Assistants.

A physician may dispense drugs to his or her patient in the regular course of his or her practice provided that the physician is registered as a dispensing physician with the Board of Medicine. In order to register as a dispensing physician, the physician must:

(1) Submit application to the Board on form DH-MQA 1070, entitled "Physician Dispensing Registration," ~~(7/11)~~ ~~(8/10)~~, which is hereby incorporated by reference and available from the Board of Medicine's website at http://www.doh.state.fl.us/mqa/medical/me_applicant.html;

(2) through (4) No change.

Rulemaking Authority 458.309, 465.0276 FS. Law Implemented 465.0276, 458.347(4)(e) FS. History--New 3-24-10, Amended 12-6-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 23, 2011

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-8.001
 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth recently enacted statutory violations and the disciplinary guidelines for those violations.

SUMMARY: The proposed rule amendments set forth recently enacted statutory violations and the range of disciplinary guidelines for the violations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION:

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.079, 458.309, 458.331(5) FS.

LAW IMPLEMENTED: 456.50(2), 456.0575, 456.072, 456.079, 458.331(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joy A. Tootle, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-8.001 Disciplinary Guidelines.

(1) No change.

(2) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

RECOMMENDED RANGE OF PENALTY

VIOLATION	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
(a) through (nnn) No change. (ooo) Failure to comply with the controlled substance prescribing requirements of Section 456.44, F.S. (456.072)(1)(mm), F.S.	<u>(ooo) From a minimum of suspension of license for a period of six(6) months followed by a period of probation and an administrative fine in the amount of \$10,000.00 to revocation and an administrative fine in the amount of \$10,000.00.</u>	<u>(ooo) From a minimum of suspension of license for a period of one (1) year followed by a period of probation and an administrative fine in the amount of \$10,000.00 to revocation and an administrative fine in the amount of \$10,000.00.</u>	<u>(ooo) From suspension to revocation and an administrative fine in the amount of \$10,000.00.</u>
(ppp) Providing false or deceptive expert witness testimony related to the practice of medicine. (458.331(1)(oo), F.S.	<u>(ppp) From a reprimand to revocation and an administrative fine from \$5,000.00 to \$10,000.00.</u>	<u>(ppp) From suspension to revocation and an administrative fine from \$7,500.00 to \$10,000.00.</u>	<u>(ppp) From suspension to revocation and an administrative fine from \$7,500.00 to \$10,000.00.</u>
(qqq) Failure to comply with the requirements of Section 390.0111(3), F.S., regarding termination of pregnancies. (456.072)(1) (k), F.S.	<u>(qqq) From a letter of concern to a period of probation and an administrative fine in the amount of \$1,000.00 to \$2,500.00.</u>	<u>(qq.) From a reprimand to suspension followed by a period of probation and an administrative fine in the amount of \$2,500.00 to \$5,000.00.</u>	<u>(qqq) From a reprimand to revocation and an administrative fine in the amount of \$5,000.00 to \$10,000.00.</u>

(3) through (7) No change.

Rulemaking Authority 456.079, 458.309, 458.331(5) FS. Law Implemented 456.50(2), 456.0575, 456.072, 456.079, 458.331(5) FS. History—New 12-5-79, Formerly 21M-20.01, Amended 1-11-87, 6-20-90, Formerly 21M-20.001, Amended 11-4-93, Formerly 61F6-20.001, Amended 6-24-96, 12-22-96, Formerly 59R-8.001, Amended 5-14-98, 12-28-99, 1-31-01, 7-10-01, 6-4-02, 9-10-02, 12-11-02, 8-20-03, 6-7-04, 8-17-04, 1-4-06, 8-13-06, 8-29-06, 11-22-06, 1-30-07, 2-18-09, 12-22-09, 7-27-10, 6-21-11, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rules Committee, Board of Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 23, 2011

DEPARTMENT OF HEALTH

Board of Medicine

RULE NOS.:	RULE TITLES:
64B8-42.001	Licensure by Endorsement
64B8-42.002	Licensure by Examination

PURPOSE AND EFFECT: The Council proposes the development of rule amendment to address changes for initial licensure application.

SUMMARY: Changes to Initial Licensure application.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.017(1), 468.507 FS.

LAW IMPLEMENTED: 456.027, 468.507, 468.509, 468.513 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Allen Hall, Executive Director, Dietetics and Nutrition Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-42.001 Licensure by Endorsement.

(1) Each applicant for certification as a dietitian/nutritionist by endorsement shall file the Application for Dietitian/Nutritionist Licensure, DOH Form DH-MQA 1161, ND APP, Rev. 05/2011 ~~10/2009~~, incorporated by reference, which can be accessed at www.doh.state.fl.us/mqa, and demonstrate the following:

- (a) through (b) No change.
- (2) through (5) No change.

Rulemaking Authority 468.507 FS. Law Implemented 468.507, 468.513 FS. History—New 4-9-89, Formerly 21M-48.001, 61F6-48.001, 59R-42.001, Amended 5-31-09, 2-15-10, _____.

64B8-42.002 Licensure by Examination.

(1) Every applicant for certification by examination shall file the Application for Dietitian/Nutritionist Licensure, DOH Form DH-MQA 1161, ND APP, Rev. 05/2011 ~~10/2009~~, which can be accessed at www.doh.state.fl.us/mqa, and demonstrate to the Council that he meets one of the following:

- (a) through (b) No change.
- (2) through (5) No change.

Rulemaking Authority 456.017(1), 468.507 FS. Law Implemented 456.027, 468.509 FS. History—New 4-9-89, Amended 11-28-90, 3-24-91, 11-9-92, 5-6-93, Formerly 21M-48.002, Amended 11-4-93, 6-9-94, Formerly 61F6-48.002, Amended 11-12-95, Formerly 59R-42.002, Amended 8-19-99, 3-9-08, 5-31-09, 1-26-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Dietetic and Nutrition Practice Council

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dietetic and Nutrition Practice Council

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NO.:	RULE TITLE:
64B14-5.002	Continuing Education Requirement

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete outdated language concerning mandatory courses for licensee’s continuing education and correct cites to rulemaking authority and law implemented.

SUMMARY: This rule is being amended to delete outdated language concerning mandatory courses for licensee’s continuing education and correct cites to rulemaking authority and law implemented.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 468.802, 468.806(2), (3) FS.
LAW IMPLEMENTED: 456.013(9), 456.024, 468.806(2), (3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Orthotists and Prosthetists /MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-5.002 Continuing Education Requirement.

(1) As a condition of license renewal or recertification, each licensee must complete approved continuing education.

(a) No change.

(b) ~~For the biennium beginning December 1, 2009, Each~~ licensee's continuing education must include the mandatory courses as identified in Rule 64B14-5.005, F.A.C.

(2) through (8) No change.

Rulemaking Authority 468.802, 468.806 FS. Law Implemented 456.013, 456.024, 468.806 FS. History—New 7-1-98, Amended 5-18-00, 7-18-02, 11-11-02, 2-15-05, 11-1-05, 3-2-08, 7-13-09, 3-30-10, _____.

NAME OF PERSON ORIGINATING RULE: Board of Orthotists and Prosthetists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 23, 2011

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE NO.: 64B33-2.001
RULE TITLE: Licensure Requirements

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify language for the requirements for licensure and to update form DOH-AT-001, "Board of Athletic Training State of Florida Examination Application for Licensure" revised 6/11, pursuant to Statutory change.

SUMMARY: The rule amendment will modify language for the requirements for licensure and to update form DOH-AT-001, "Board of Athletic Training State of Florida Examination Application for Licensure" revised 6/11, pursuant to statutory change.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

The Board determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.013(7), (9), 468.705, 468.707 FS.

LAW IMPLEMENTED: 456.013(7), 468.707 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Athletic Training/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B33-2.001 Licensure Requirements.

All candidates for licensure shall pay the application fee and shall submit to the Department a completed DOH form DOH-AT-001 entitled "BOARD OF ATHLETIC TRAINING STATE OF FLORIDA EXAMINATION APPLICATION FOR LICENSURE" (Revised ~~6-11~~ ~~8-09~~) incorporated herein by reference. The application can be obtained by writing the Department of Health, Board of Athletic Training, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258. The application is also available from the Board's website address as follows: http://www.doh.state.fl.us/mqa/athtrain/at_lic_req.html.

(1) Each applicant for licensure shall meet the following requirements:

(a) No change.

(b) The applicant shall submit proof of passing the Board of Certification Entry Level Certification examination, which is hereby approved by the Board, and proof of certification by the Board of Certification.

(c) The applicant shall submit proof of current certification in cardiovascular pulmonary resuscitation with an automated external defibrillator at the professional rescue level from the American Heart Association, the American Red Cross, American Safety and Health Institute, the National Safety Council, or an entity approved by the Board as equivalent.

(2) No change.

Rulemaking Authority 456.013(7), (9), 468.705, 468.707 FS. Law Implemented 456.013(7), 468.707 FS. History—New 5-29-96, Formerly 61-25.002, 64B30-25.002, Amended 8-22-00, 5-9-02, 3-6-07, 8-12-08, 5-27-09, 5-27-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Athletic Training
NAME AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Department of Health
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 27, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE NO.: 64B33-2.003
RULE TITLE: Requirements for Continuing Education

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the requirements for continuing education courses, pursuant to Statutory change.

SUMMARY: The Board proposes the rule amendment to update the requirements for continuing education courses, pursuant to Statutory change.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

The Board determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.013, 456.034(5), 468.705, 468.711(2), (3) FS.

LAW IMPLEMENTED: 456.013(7), 456.034, 468.711(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Athletic Training/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B33-2.003 Requirements for Continuing Education.

(1) In the 24 months preceding each biennial renewal period, every athletic trainer licensed pursuant to Chapter 468, Part XIII, F.S., shall be required to complete 24 hours of continuing education in courses approved by the Board. However, athletic trainers who receive an initial license during the second half of the biennium shall be required to complete only 12 hours of continuing education in courses approved by the Board prior to renewal. The hours of continuing education required for renewal must include a minimum of one hour in HIV/AIDS as described in Rule 64B33-2.002, F.A.C., and a two-hour course in prevention of medical errors required by Section 456.013(7), F.S. The continuing education requirement includes current certification in cardiovascular pulmonary resuscitation with an automated external defibrillator at the professional rescue level from the American Red Cross, the American Heart Association, American Safety and Health Institute, the National Safety Council, or an entity approved by the Board as equivalent. Athletic trainers who receive an initial license during the 90 days preceding a renewal period shall not be required to complete any continuing education for that renewal period.

(2) through (6) No change.

Rulemaking Authority 456.013, , 456.034(5), 468.705, 468.711(2), (3) FS. Law Implemented 456.013(7), 456.034, 468.711(2) FS. History—New 8-4-98, Formerly 64B30-25.0031, Amended 8-22-00, 3-6-07, 8-12-08, 7-29-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Athletic Training
NAME AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Department of Health
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 27, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE NO.: 64B33-2.005
 RULE TITLE: Requirements for Reactivation of an Inactive License

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the language for reactivation of an inactive license.

SUMMARY: The rule amendment will modify the language for reactivation of an inactive license, pursuant to statutory change.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

The Board determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.036, 468.705 FS.

LAW IMPLEMENTED: 456.036 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Athletic Training/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B33-2.005 Requirements for Reactivation of an Inactive License.

An inactive license shall be reactivated upon demonstration that the licensee has paid the reactivation fee set forth in Rule 64B33-3.001, F.A.C., and has complied with the following requirements:

- (1) As a condition to the reactivation of an inactive license, an athletic trainer must submit proof of successful completion of approved continuing education for each year of inactive status, if initially licensed after January 1, 1998, submit proof of current certification by the Board of Certification and must disclose any criminal convictions or pending disciplinary or criminal charges. In addition, the athletic trainer must submit a written statement which accounts for all employment activity during the period of inactive licensure.

(2) No change.

Rulemaking Authority 456.036, 468.705 FS. Law Implemented 456.036 FS. History—New 8-10-09, Amended 12-3-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Athletic Training

NAME AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Department of Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 27, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NOS.:	RULE TITLES:
69B-157.003	Definition of Terms
69B-157.104	Policy Practices and Provisions
69B-157.105	Refund of Premium
69B-157.106	Required Disclosure Provisions
69B-157.107	Required Disclosure of Rating Practices to Consumers
69B-157.109	Prohibition Against Post-Claims Underwriting
69B-157.111	Reporting Requirements
69B-157.114	Filing Requirement - Out of State Groups
69B-157.118	Nonforfeiture Benefit Requirement
69B-157.120	Standard Format Outline of Coverage

PURPOSE AND EFFECT: These rules are being repealed since they are duplicative of their correspondingly numbered rule in Chapter 690-157, F.A.C., which is administered by the Office of Insurance Regulation.

SUMMARY: These rules are being repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Knowledge and experience of Department staff.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 624.308(1), 627.9407, 627.9408, 626.9611 FS.

LAW IMPLEMENTED: 624.307(1), 626.9541, 627.410, 627.603, 627.6043, 627.646, 627.6645, 627.9402, 627.9405, 627.9407 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: November 15, 2011, 10:00 a.m.

PLACE: Room 142, Larson Building, 200 E. Gaines Street, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Cindy Benefield, (850)413-5404 or Cindy.Benefield@MyFloridaCFO.com.. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Cindy Benefield, Senior Management Analyst, Division of Insurance Agents and Agency Services, 200 E. Gaines Street, Tallahassee, FL 32399, (850)413-5404

THE FULL TEXT OF THE PROPOSED RULES IS:

69B-157.003 Definition of Terms.

Rulemaking Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 627.9407 FS. History–New 5-17-89, Formerly 4-81.003, 4-157.003, Repealed.

69B-157.104 Policy Practices and Provisions.

Rulemaking Specific Authority 624.308(1), 627.9407(1), (6), 627.9408 FS. Law Implemented 624.307(1), 627.410(6), 627.603, 627.646, 627.9402, 627.9405(2), 627.9407 FS. History–New 1-13-03, Formerly 4-157.104, Repealed.

69B-157.105 Refund of Premium.

Rulemaking Specific Authority 624.308(1), 627.9407(1), (6), 627.9408 FS. Law Implemented 624.307(1), 627.6043, 627.6645, 627.9407 FS. History–New 1-13-03, Formerly 4-157.105, Repealed.

69B-157.106 Required Disclosure Provisions.

Rulemaking Specific Authority 624.308(1), 627.9407(1), 627.9408 FS. Law Implemented 624.307(1), 627.6044, 627.9402, 627.9407, 627.94074 FS. History–New 1-13-03, Formerly 4-157.106, Repealed.

69B-157.107 Required Disclosure of Rating Practices to Consumers.

Rulemaking Specific Authority 624.308(1), 627.9407(1), 626.9611 FS. Law Implemented 624.307(1), 626.9541(1)(a), (b), (k), 627.9402, 627.9407(1), 627.9408 FS. History–New 1-13-03, Formerly 4-157.108, Repealed.

69B-157.109 Prohibition Against Post-Claims Underwriting.

Rulemaking Specific Authority 624.308(1), 626.9611, 627.9407(1), 627.9408 FS. Law Implemented 624.307(1), 626.9541(1)(a), (g), (i), (k), 627.9402, 627.9407(1), 627.9408 FS. History–New 1-13-03, Formerly 4-157.109, Repealed.

69B-157.111 Reporting Requirements.

Rulemaking Specific Authority 624.308(1), 627.9407(1), 627.9408 FS. Law Implemented 624.307(1), 627.9402, 627.9407(1), 627.410(7) FS. History–New 1-13-03, Formerly 4-157.111, Repealed.

69B-157.114 Filing Requirement – Out of State Groups.

Rulemaking Specific Authority 624.308(1), 627.9407(1), 627.9408 FS. Law Implemented 624.307(1), 627.410, 627.9402, 627.9406, 627.9407(1), (3), (4), (8), (9), 627.9408 FS. History–New 1-13-03, Formerly 4-157.114, Repealed.

69B-157.118 Nonforfeiture Benefit Requirement.

Rulemaking Specific Authority 624.308(1), 627.9407(1), 627.9408 FS. Law Implemented 624.307(1), 627.410(6), 627.9402, 627.9407, 627.94072 FS. History–New 1-13-03, Formerly 4-157.118, Repealed.

69B-157.120 Standard Format Outline of Coverage.

Rulemaking Specific Authority 624.308(1), 627.9407(1), 627.9408 FS. Law Implemented 624.307(1), 627.9402, 627.9407 FS. History–New 1-13-03, Formerly 4-157.120, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Greg Thomas, Director, Division of Insurance Agents and Agency Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 9, 2011

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NOS.:	RULE TITLES:
69B-166.021	Definitions
69B-166.024	Failure to Acknowledge Communications and Act Promptly as to Communications with Respect to Claims and to Implement Standards for the Prompt Investigation of Claims

PURPOSE AND EFFECT: Rules 69B-166.021 and 69B-166.024, F.A.C., are repealed since they are duplicative of Rules 69O-166.021 and 69O-166.024, F.A.C., that are administered by the Office of Insurance Regulation.

SUMMARY: Rules 69B-166.021 and 69B-166.024, F.A.C., are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Knowledge and experience of Department staff.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 624.308 FS.
LAW IMPLEMENTED: 624.307(1), 624.3161, 626.9541(1)(i)3.a., 627.4131 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: November 14, 2011, 10:00 a.m.
PLACE: Room 142, Larson Building, 200 E. Gaines Street, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Cindy Benefield, (850)413-5404 or Cindy.Benefield@MyFloridaCFOcfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Cindy Benefield, Senior Management Analyst, Division of Insurance Agents and Agency Services, 200 E. Gaines Street, Tallahassee, FL 32399, (850)413-5404

THE FULL TEXT OF THE PROPOSED RULES IS:

69B-166.021 Definitions.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 624.3161 FS. History—New 11-2-92, Formerly 4-166.021, Repealed.

69B-166.024 Failure to Acknowledge Communications and Act Promptly as to Communications with Respect to Claims and to Implement Standards for the Prompt Investigation of Claims.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 624.3161, 626.9541(1)(i)3.a., 627.4131 FS. History—New 11-2-92, Formerly 4-166.024, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Greg Thomas, Director, Division of Insurance Agents and Agency Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2011

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.031
RULE TITLE: Recount Procedures

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 41, October 14, 2011 issue of the Florida Administrative Weekly.

The date, time and place for the rule development workshop was inadvertently omitted. This second rule workshop will be held as shown below:

DATE AND TIME: October 31, 2011, 2:00 p.m.
PLACE: Room 307, R.A. Gray Building, Florida Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399

Any person needing special accommodations to participate in this proposed rule development workshop should contact Eddie L. Phillips, Executive Assistant, Office of General Counsel, Department of State at 1(850)245-6500 or at elphillips@dos.state.fl.us no later than 5 days before the workshop. Any person who is hearing or speech impaired may contact the Department by using the Florida Relay Service with the following toll free numbers: 1(800)955-8770 (voice) or 1(800)955-8771.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-4.0021
RULE TITLE: Florida Teacher Certification Examinations