**June 26, 2012**

**MEMORANDUM #032-12HR**

**TO:** **Agency Administrators**

**FROM:** **Jennifer Henderson, Senior Human Resources Coordinator**

**VIA:** **Rip Colvin, Executive Director**

**RE:** **Employee Retirement Contributions – FAQ's**

In light of recent inquiries, we would like to remind employees of the provisions and rules governing the 3% employee retirement contribution mandated during the 2011 legislative session.

This employee contribution is applicable to employees participating in The FRS Pension Plan, as well as members of The FRS Investment Plan. The attached FAQ's were released by the FRS Plan Administrator to assist employees and FRS covered agencies with questions they may have regarding this 3% pre-tax retirement contribution. All employees are required to make these contributions with the exception of members participating in DROP and re-employed retirees who are ineligible to earn a 2nd retirement benefit. Employees who wish to receive a refund of these contributions should consider this decision wisely. Pension Plan members who receive a refund of employee contributions, whether vested or unvested, will lose the associated service credit represented by these contributions.

Investment Plan members who receive a refund of their 3% employee contributions, will forfeit any unvested contributions and any service credit represented by those unvested contributions. Investment Plan members should also carefully consider the re-employment implications upon taking a refund of their employee retirement contributions. Members receiving a refund of their employee retirement contributions will be considered to have "retired" under the Investment Plan. These "retired" Investment Plan members will therefore become ineligible to earn a 2nd retirement benefit if subsequently rehired by an FRS employer. Members of both retirement plans are eligible to receive a refund of their employee retirement contributions on deposit, after terminating from all FRS-covered employment.

In addition, we are currently monitoring the progress of the Supreme Court appeal filed by the state to overturn the lower court ruling by Judge Jackie Fulford, which blocked legislation requiring employees to contribute 3% to their retirement plan. We will continue to keep you updated on this important court decision and the potential impact to employee retirement benefits. Please contact Jennifer Henderson at (850) 488-2415, ext 293, jennifer.henderson@jac.myflorida.com, if you have any questions.

Attachment

***Please note my email address has changed to Andy.Snuggs@jac.myflorida.com.***


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**Employee Frequently Asked Questions (FAQs)**
**2011 Legislation**

The Florida Legislature completed its 2011 session and passed Senate Bill 2100, making substantive changes to the Florida Retirement System (FRS). The following FAQs reflect the questions members and employers have been asking the most.

**Average Final Compensation (AFC)**
What is the new AFC and how will it be calculated?
When will the new AFC take effect?
Does the new AFC apply to all FRS members?

**Normal Retirement Date**
What is the new normal retirement date?
When will the new normal retirement date take effect?
Does the new normal retirement date apply to all FRS members?

**Miscellaneous**
For Pension Plan members, is the 5% early retirement reduction still in effect?
Are lump-sum payments for accumulated annual leave still creditable for retirement purposes?
If an employee worked as adjunct faculty for a community college for 11 years and has worked 12 years as a full time for the state, how is the time worked at the community college counted toward the years needed to be vested?

# Legislation

**Question:** Why did the Legislature make these changes to the FRS?

**Answer:** Since the FRS was established in 1970, thousands of Floridians have benefited from the retirement income they have received from the FRS. However, the FRS is now underfunded and the 2011 Florida Legislature took steps to reduce the FRS Pension Plan's costs. These steps included requiring employee contributions, increasing normal retirement for new hires, and reducing the COLA and DROP interest rate for future retirees. These actions were necessary to ensure the Pension Plan will be properly funded when today's workforce is ready to retire.

# Employee Contributions

**Question:** How much will my employer and I contribute?

**Answer:** All FRS Investment Plan and Pension Plan members will make 3% employee contributions. Both you and your employer will pay the retirement contributions needed to fund your retirement benefits, as shown in the following table.

| Membership Class | Paid by You | Paid by Your Employer | | | |
|---|---|---|---|---|---|
| | Retirement | Retirement | Administrative & Education | Health Insurance Subsidy | Total |
| Regular Class | 3% | 3.77% | 0.03% | 1.11% | 7.91% |
| Special Risk Class | 3% | 12.96% | 0.03% | 1.11% | 17.10% |
| Special Risk Administrative Support Class | 3% | 4.90% | 0.03% | 1.11% | 9.04% |
| Elected Officers' Class - (Judges) | 3% | 10.55% | 0.03% | 1.11% | 14.69% |
| Elected Officers' Class - (Legislature/Cabinet/Public Defender/State Attorney) | 3% | 7.90% | 0.03% | 1.11% | 12.04% |
| Elected Officers' Class - (County and Local) | 3% | 10.00% | 0.03% | 1.11% | 14.14% |
| Senior Management Service Class | 3% | 5.13% | 0.03% | 1.11% | 9.27% |
| DROP | 0% | 3.31% | 0% | 1.11% | 4.42% |

**Question:** When will employee contributions begin?

**Answer:** Your employer will deduct this amount from your gross salary each paycheck beginning in July 2011.

**Question:** Are employee contributions mandatory?

**Answer:** Yes.

**Question:** Are employee contributions paid before or after taxes?

**Answer:** Employee contributions are paid before taxes (on a pretax basis). Your salary will be reduced by the amount of the employee contribution before determining the federal income tax deduction.

**Question:** Do all Pension Plan and Investment Plan members have to pay 3% employee contributions?

**Answer:** Yes, except as noted in the following 2 questions.

**Question:** Will DROP participants have to pay the 3% employee contribution?

**Answer:** No.

**Question:** Will reemployed retirees have to pay the 3% employee contribution?

**Answer:** Reemployed retirees initially reemployed by an FRS employer prior to July 1, 2010 will be required to make the 3% employee contribution since they are permitted renewed membership in the FRS. Reemployed retirees initially reemployed by an FRS employer on or after July 1, 2010 are not required to make the 3% employee contributions since they are not allowed renewed membership in the FRS.

**Question:** Can I contribute 3% to another savings plan (IRA, deferred compensation plan, etc.) instead of to the FRS?

**Answer:** No. You may make optional contributions to other savings plans; however, the 3% employee contribution is mandatory for the FRS.

**Question:** How long do I need to work before I own the employee contributions in my account?

**Answer:** You are always fully vested in your own contributions. There is no period of time you must work to own your employee contributions.

**Question:** Can I receive a loan or hardship withdrawal of my employee contributions?

**Answer:** No.

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**Question:** What are the requirements to take a distribution from my retirement account?

**Answer:** Vesting is the length of service required to own the money in your Investment Plan account or to be eligible for a future Pension Plan benefit. Investment Plan members are vested after 1 year of service. Pension Plan members are vested after 8 years of service if hired on or after July 1, 2011, or 6 years of service if you have any Pension Plan service prior to July 1, 2011.

You are always fully vested in your own contributions. This means that if you terminate FRS employment prior to meeting your plan’s vesting requirements, you will be entitled to a refund of your own contributions after you have been terminated for 3 calendar months.

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**Question:** How will taking a distribution of my employee contributions affect my status in the FRS?

**Answer:** If you are a Pension Plan member who receives a refund of employee contributions, you will forfeit your retirement service credit in the FRS for the period represented by the refund. If you ever return to FRS covered employment, you would be eligible to buy back the years of refunded service after returning to FRS covered employment for 1 year of service credit.

If you are an Investment Plan member who receives a refund of employee contributions, you will forfeit any unvested contributions and the service associated with those unvested contributions. You will also be declared a retiree. If you should ever return to FRS covered employment in the future, you will not be eligible for FRS membership.

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**Question:** If I terminate employment can I leave my employee contributions on deposit?

**Answer:** If you are a Pension Plan member, you can leave your employee contributions on deposit indefinitely. Interest will not be earned.

If you are an Investment Plan member, you can leave your employee contributions on deposit. Any unvested employer contributions will be moved to a suspense account for up to 5 years. If you do not return to FRS employment within 5 years, the unvested employer contributions and service associated with that service will be forfeited. If your employee contributions on deposit are greater than $1,000 at the time the unvested contributions are suspended/forfeited, you may keep them on deposit in the Investment Plan. If your vested employee contributions on deposit are $1,000 or less, the Investment Plan Administrator will automatically distribute the balance to you (a de minimis distribution). If you receive a de minimis distribution, you will not be considered a reemployed retiree and will not be subject to the limitations applicable to such employees. If you receive a de minimis distribution and return to FRS-covered employment in the future, you will be placed back in the FRS Investment Plan.

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**Question:** Will my employee contributions earn interest?

**Answer:** Employee contributions in the Pension Plan will not earn interest. Employee contributions in the Investment Plan will accumulate earnings, minus investment fees and administrative charges.

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**Question:** Who is earning interest on the 3% employee contributions I am contributing and who benefits from this interest – the state or me?

**Answer:** The employee (and employer contributions) are submitted monthly to the Division of Retirement. Depending on whether you are in the Pension Plan or Investment Plan, the contributions are deposited as follows:

**Pension Plan** – The contributions are deposited in the FRS Trust Fund and records are kept of the contributions paid by you. The State Board of Administration of Florida is responsible for managing the FRS Trust Fund's investments. The total amount of contributions paid in by you and your employer and earnings on these funds are not correlated to the Pension Plan benefit you will receive at retirement. Pension Plan benefits are based on a formula:

Years of service X value per year X Average Final Compensation = Annual option 1 benefit at normal retirement.

**Investment Plan** – The contributions are deposited into your Investment Plan account that you manage. Your benefit depends on the amount of money contributed to your account and how well that money grows over time.

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**Question:** If I am on a military leave without pay, will I still have to contribute the 3% employee contribution?

**Answer:** No, not while you are on the leave. Once you return to active FRS-covered employment you will be required to submit Form DD-214 to the Division of Retirement. The Division will calculate the mandatory cost for you and your employer. The Division will bill you separately from your employer. Your employer will not be required to pay your contributions or collect them from you.

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**Question:** Will the 3% employee contribution be paid on any overtime pay I earn?

**Answer:** Yes.

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**Question:** I am required to start contributing 3% employee contributions effective July 1, 2011. Will the 3% count towards the 10.77% total employer contribution being paid during 2010-2011 for a Regular Class member? Will my employer now only contribute 7.77% instead of 10.77% or is the 3% in addition to the 10.77%?

**Answer:** The required 3% employee contribution results in a reduction of the employer contribution rates, but the rates changed effective July 1, 2011. For the Regular Class, your employer will contribute 4.91% and you will contribute 3%. The contribution rates effective July 2011 were provided to your employer in Information Release 2011-150 dated May 31, 2011 (available from the Employer page on http://frs.myflorida.com).

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## DROP Interest Rate Reduced

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**Question:** What is the new interest rate?

**Answer:** The DROP annual interest rate is reduced from 6.5% to 1.3% per year for any member whose DROP participation date is effective on or after July 1, 2011.

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**Question:** When will the new interest rate begin?

**Answer:** The new rate will apply to any member whose DROP participation date is effective on or after July 1, 2011.

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**Question:** I want to join DROP prior to the reduced interest rate taking effect. Is there a deadline date for submitting my DROP application?

**Answer:** You must submit a DROP application to the Division of Retirement on or before June 30, 2011.

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**Question:** Are all DROP members affected by this new interest rate?

**Answer:** No. Members whose DROP participation date is prior to July 1, 2011 will retain the 6.5% interest rate for their entire DROP period.

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**Question:** How much will my DROP lump sum be reduced as a result of this change?

**Answer:** A 1.3% interest rate versus a 6.5% interest rate results in a roughly 12% reduction in the ending balance after 5 years (applicable if your DROP begin date is before July 1, 2011). If your DROP begin date is on or after August 1, 2011, the reduction will be greater than 12% due to a reduced COLA used in your DROP calculation.

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## Cost of Living Adjustment (COLA) Reduced

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**Question:** What is the new COLA and how will it be calculated?

**Answer:** There will be no Pension Plan COLA on FRS service earned on or after July 1, 2011. A reduced COLA will be calculated if your retirement or DROP participation date is effective on or after August 1, 2011. The reduced COLA will be calculated by taking the total years of service earned prior to July 1, 2011 and dividing it by the total years of service at retirement, then multiplying it by 3%.

For example, if you retire effective July 1, 2012 with 30 years of service (29 years earned before July 1, 2011) you will receive a 2.9% COLA each July: 29 ÷ 30 = .9667 X 3% = 2.9%.

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**Question:** When will the new COLA take effect?

**Answer:** A reduced COLA will apply if your retirement or DROP participation date is effective on or after August 1, 2011.

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**Question:** Are DROP members affected by the new COLA?

**Answer:** Yes, if your DROP participation date is effective on or after August 1, 2011. If you have an effective DROP participation date before August 1, 2011, you will <u>not</u> have a change in the 3% COLA paid each July.

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**Question:** Are all retirees affected by the new COLA?

**Answer:** No. If your effective retirement date is before August 1, 2011, you will not have a change in the 3% COLA paid each July. If your effective retirement date is on or after August 1, 2011, and you earn service credit July 2011 or after, you will have an individually calculated COLA that is reduced from 3%.

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## Vesting

**Question:** What is the new vesting requirement?

**Answer:** New Pension Plan members enrolling in the FRS for the first time on or after July 1, 2011 will vest (own their benefit) after they complete 8 years.

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**Question:** When will the new vesting requirements take effect?

**Answer:** The new vesting requirements take effect July 1, 2011 and are applicable to new Pension Plan members enrolling in the FRS for the first time on or after July 1, 2011.

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**Question:** Does the new vesting requirement apply to all FRS members?

**Answer:** No, it only applies to new Pension Plan members enrolling in the FRS for the first time on or after July 1, 2011.

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**Question:** Did the vesting requirement change for the Investment Plan?

**Answer:** No, the Investment Plan's 1-year vesting requirement has not changed.

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**Question:** What vesting period applies if I use my 2nd Election and transfer from the Pension Plan to the Investment Plan?

**Answer:** Pension Plan members who enroll in the FRS for the first time on or after July 1, 2011 and who subsequently use their 2nd Election to transfer to the Investment Plan, will vest in their Pension Plan present value after completing 8 years of service. Pension Plan members who enrolled in the FRS for the first time prior to July 1, 2011 and who subsequently use their 2nd Election to transfer to the Investment Plan will vest in their Pension Plan present value after completing 6 years of service.

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## Average Final Compensation (AFC)

**Question:** What is the new AFC and how will it be calculated?

**Answer:** New Pension Plan members enrolling in the FRS for the first time on or after July 1, 2011 will have an AFC calculation based on the average of the 8 highest fiscal years of salary.

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**Question:** When will the new AFC take effect?

**Answer:** The new AFC calculation takes effect July 1, 2011 and is applicable to new Pension Plan members enrolling in the FRS for the first time on or after July 1, 2011.

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**Question:** Does the new AFC apply to all FRS members?

**Answer:** No, it only applies to new Pension Plan members enrolling in the FRS for the first time on or after July 1, 2011.

## Normal Retirement Date

**Question:** What is the new normal retirement date?

**Answer:** New Pension Plan members enrolling in the FRS for the first time on or after July 1, 2011 will have a normal retirement date as follows:

- **Regular, Senior Management Service, Elected Officers', and Special Risk Administrative Support Classes** – Age 65 with 8 years of service or 33 years of service regardless of age.
- **Special Risk Class** – Age 60 with 8 years of Special Risk Class service, or 30 years of Special Risk Class service regardless of age, or age 57 with 30 years of combined Special Risk Class service and up to 4 years wartime military service (your first enrollment in the FRS must be before January 1, 1987 to be able purchase this service).

**Question:** When will the new normal retirement date take effect?

**Answer:** The new normal retirement date takes effect July 1, 2011 and is applicable to new Pension Plan members enrolling in the FRS for the first time on or after July 1, 2011.

**Question:** Does the new normal retirement date apply to all FRS members?

**Answer:** No, they only apply to new Pension Plan members enrolling in the FRS for the first time on or after July 1, 2011.

## Miscellaneous

**Question:** For Pension Plan members, is the 5% per year early retirement reduction still in effect?

**Answer:** Yes, the law did not change the early retirement reduction (5% for each prior to your normal retirement age).

**Question:** Are lump-sum payments for accumulated annual leave still creditable for retirement purposes?

**Answer:** Yes, the law still permits up to 500 hours of lump sum annual leave to be used in the calculation of the average final compensation for Pension Plan members (maximum of 500 hours). For Investment Plan members, retirement contributions based on the lump sum annual leave payment will be paid into the member's Investment Plan account.

**Question:** If an employee worked as adjunct faculty for a community college for 11 years and has worked 12 years as a full time for the state, how is the time worked at the community college counted toward the years needed to be vested?

**Answer:** Employment in adjunct positions is not creditable under the FRS. Therefore, the years as an adjunct instructor do not count toward vesting.