

By Senator Burt

16-587-01

1                                   A bill to be entitled  
2           An act relating to retirement; amending s.  
3           121.091, F.S.; revising conditions on  
4           reemployment of district school board  
5           instructional personnel after retirement;  
6           providing for continuation of district school  
7           board instructional personnel in the Deferred  
8           Retirement Option Program beyond its regular  
9           limits under certain circumstances; providing a  
10          finding of important state interest; providing  
11          an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Paragraph (b) of subsection (9) and  
16 paragraphs (a) and (b) of subsection (13) of section 121.091,  
17 Florida Statutes, are amended to read:

18           121.091 Benefits payable under the system.--Benefits  
19 may not be paid under this section unless the member has  
20 terminated employment as provided in s. 121.021(39)(a) or  
21 begun participation in the Deferred Retirement Option Program  
22 as provided in subsection (13), and a proper application has  
23 been filed in the manner prescribed by the department. The  
24 department may cancel an application for retirement benefits  
25 when the member or beneficiary fails to timely provide the  
26 information and documents required by this chapter and the  
27 department's rules. The department shall adopt rules  
28 establishing procedures for application for retirement  
29 benefits and for the cancellation of such application when the  
30 required information or documents are not received.

31           (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

1           (b)1. Any person who is retired under this chapter,  
2 except under the disability retirement provisions of  
3 subsection (4), may be reemployed by any private or public  
4 employer after retirement and receive retirement benefits and  
5 compensation from his or her employer without any limitations,  
6 except that a person other than a certified instructional  
7 employee of a district school board may not receive both a  
8 salary from reemployment with any agency participating in the  
9 Florida Retirement System and retirement benefits under this  
10 chapter for a period of 12 months immediately subsequent to  
11 the date of retirement. However, a DROP participant shall  
12 continue employment and receive a salary during the period of  
13 participation in the Deferred Retirement Option Program, as  
14 provided in subsection (13).

15           2. Any person to whom the limitation in subparagraph  
16 1. applies who violates such reemployment limitation and who  
17 is reemployed with any agency participating in the Florida  
18 Retirement System before completion of the 12-month limitation  
19 period shall give timely notice of this fact in writing to the  
20 employer and to the division and shall have his or her  
21 retirement benefits suspended for the balance of the 12-month  
22 limitation period. Any person employed in violation of this  
23 paragraph and any employing agency which knowingly employs or  
24 appoints such person without notifying the Division of  
25 Retirement to suspend retirement benefits shall be jointly and  
26 severally liable for reimbursement to the retirement trust  
27 fund of any benefits paid during the reemployment limitation  
28 period. To avoid liability, such employing agency shall have  
29 a written statement from the retiree that he or she is not  
30 retired from a state-administered retirement system. Any  
31 retirement benefits received while reemployed during this

1 reemployment limitation period shall be repaid to the  
2 retirement trust fund, and retirement benefits shall remain  
3 suspended until such repayment has been made. Benefits  
4 suspended beyond the reemployment limitation shall apply  
5 toward repayment of benefits received in violation of the  
6 reemployment limitation.

7           3. A district school board may reemploy a retired  
8 member as a substitute or hourly teacher, education  
9 paraprofessional, transportation assistant, bus driver, or  
10 food service worker on a noncontractual basis after he or she  
11 has been retired for 1 calendar month, in accordance with s.  
12 121.021(39) or as provided in subparagraph 1. Any retired  
13 member who is reemployed within 1 calendar month after  
14 retirement shall void his or her application for retirement  
15 benefits. District school boards reemploying such teachers,  
16 education paraprofessionals, transportation assistants, bus  
17 drivers, or food service workers are subject to the retirement  
18 contribution required by subparagraph 7. Reemployment of a  
19 retired member as a substitute or hourly teacher, education  
20 paraprofessional, transportation assistant, bus driver, or  
21 food service worker is limited to 780 hours during the first  
22 12 months of his or her retirement. Any retired member  
23 reemployed for more than 780 hours during his or her first 12  
24 months of retirement shall give timely notice in writing to  
25 the employer and to the division of the date he or she will  
26 exceed the limitation. The division shall suspend his or her  
27 retirement benefits for the remainder of the first 12 months  
28 of retirement. Any person employed in violation of this  
29 subparagraph and any employing agency which knowingly employs  
30 or appoints such person without notifying the Division of  
31 Retirement to suspend retirement benefits shall be jointly and

1 severally liable for reimbursement to the retirement trust  
2 fund of any benefits paid during the reemployment limitation  
3 period. To avoid liability, such employing agency shall have  
4 a written statement from the retiree that he or she is not  
5 retired from a state-administered retirement system. Any  
6 retirement benefits received by a retired member while  
7 reemployed in excess of 780 hours during the first 12 months  
8 of retirement shall be repaid to the Retirement System Trust  
9 Fund, and his or her retirement benefits shall remain  
10 suspended until repayment is made. Benefits suspended beyond  
11 the end of the retired member's first 12 months of retirement  
12 shall apply toward repayment of benefits received in violation  
13 of the 780-hour reemployment limitation.

14           4. A community college board of trustees may reemploy  
15 a retired member as an adjunct instructor, that is, an  
16 instructor who is noncontractual and part-time, or as a  
17 participant in a phased retirement program within the Florida  
18 Community College System, after he or she has been retired for  
19 1 calendar month, in accordance with s. 121.021(39). Any  
20 retired member who is reemployed within 1 calendar month after  
21 retirement shall void his or her application for retirement  
22 benefits. Boards of trustees reemploying such instructors are  
23 subject to the retirement contribution required in  
24 subparagraph 7. A retired member may be reemployed as an  
25 adjunct instructor for no more than 780 hours during the first  
26 12 months of retirement. Any retired member reemployed for  
27 more than 780 hours during the first 12 months of retirement  
28 shall give timely notice in writing to the employer and to the  
29 division of the date he or she will exceed the limitation.  
30 The division shall suspend his or her retirement benefits for  
31 the remainder of the first 12 months of retirement. Any

1 person employed in violation of this subparagraph and any  
2 employing agency which knowingly employs or appoints such  
3 person without notifying the Division of Retirement to suspend  
4 retirement benefits shall be jointly and severally liable for  
5 reimbursement to the retirement trust fund of any benefits  
6 paid during the reemployment limitation period. To avoid  
7 liability, such employing agency shall have a written  
8 statement from the retiree that he or she is not retired from  
9 a state-administered retirement system. Any retirement  
10 benefits received by a retired member while reemployed in  
11 excess of 780 hours during the first 12 months of retirement  
12 shall be repaid to the Retirement System Trust Fund, and  
13 retirement benefits shall remain suspended until repayment is  
14 made. Benefits suspended beyond the end of the retired  
15 member's first 12 months of retirement shall apply toward  
16 repayment of benefits received in violation of the 780-hour  
17 reemployment limitation.

18           5. The State University System may reemploy a retired  
19 member as an adjunct faculty member or as a participant in a  
20 phased retirement program within the State University System  
21 after the retired member has been retired for 1 calendar  
22 month, in accordance with s. 121.021(39). Any retired member  
23 who is reemployed within 1 calendar month after retirement  
24 shall void his or her application for retirement benefits.  
25 The State University System is subject to the retired  
26 contribution required in subparagraph 7., as appropriate. A  
27 retired member may be reemployed as an adjunct faculty member  
28 or a participant in a phased retirement program for no more  
29 than 780 hours during the first 12 months of his or her  
30 retirement. Any retired member reemployed for more than 780  
31 hours during the first 12 months of retirement shall give

1 timely notice in writing to the employer and to the division  
2 of the date he or she will exceed the limitation. The  
3 division shall suspend his or her retirement benefits for the  
4 remainder of the first 12 months of retirement. Any person  
5 employed in violation of this subparagraph and any employing  
6 agency which knowingly employs or appoints such person without  
7 notifying the Division of Retirement to suspend retirement  
8 benefits shall be jointly and severally liable for  
9 reimbursement to the retirement trust fund of any benefits  
10 paid during the reemployment limitation period. To avoid  
11 liability, such employing agency shall have a written  
12 statement from the retiree that he or she is not retired from  
13 a state-administered retirement system. Any retirement  
14 benefits received by a retired member while reemployed in  
15 excess of 780 hours during the first 12 months of retirement  
16 shall be repaid to the Retirement System Trust Fund, and  
17 retirement benefits shall remain suspended until repayment is  
18 made. Benefits suspended beyond the end of the retired  
19 member's first 12 months of retirement shall apply toward  
20 repayment of benefits received in violation of the 780-hour  
21 reemployment limitation.

22           6. The Board of Trustees of the Florida School for the  
23 Deaf and the Blind may reemploy a retired member as a  
24 substitute teacher, substitute residential instructor, or  
25 substitute nurse on a noncontractual basis after he or she has  
26 been retired for 1 calendar month, in accordance with s.  
27 121.021(39). Any retired member who is reemployed within 1  
28 calendar month after retirement shall void his or her  
29 application for retirement benefits. The Board of Trustees of  
30 the Florida School for the Deaf and the Blind reemploying such  
31 teachers, residential instructors, or nurses is subject to the

1 retirement contribution required by subparagraph 7.  
2 Reemployment of a retired member as a substitute teacher,  
3 substitute residential instructor, or substitute nurse is  
4 limited to 780 hours during the first 12 months of his or her  
5 retirement. Any retired member reemployed for more than 780  
6 hours during the first 12 months of retirement shall give  
7 timely notice in writing to the employer and to the division  
8 of the date he or she will exceed the limitation. The division  
9 shall suspend his or her retirement benefits for the remainder  
10 of the first 12 months of retirement. Any person employed in  
11 violation of this subparagraph and any employing agency which  
12 knowingly employs or appoints such person without notifying  
13 the Division of Retirement to suspend retirement benefits  
14 shall be jointly and severally liable for reimbursement to the  
15 retirement trust fund of any benefits paid during the  
16 reemployment limitation period. To avoid liability, such  
17 employing agency shall have a written statement from the  
18 retiree that he or she is not retired from a  
19 state-administered retirement system. Any retirement benefits  
20 received by a retired member while reemployed in excess of 780  
21 hours during the first 12 months of retirement shall be repaid  
22 to the Retirement System Trust Fund, and his or her retirement  
23 benefits shall remain suspended until payment is made.  
24 Benefits suspended beyond the end of the retired member's  
25 first 12 months of retirement shall apply toward repayment of  
26 benefits received in violation of the 780-hour reemployment  
27 limitation.

28           7. The employment by an employer of any retiree or  
29 DROP participant of any state-administered retirement system  
30 shall have no effect on the average final compensation or  
31 years of creditable service of the retiree or DROP

1 participant. Prior to July 1, 1991, upon employment of any  
2 person, other than an elected officer as provided in s.  
3 121.053, who has been retired under any state-administered  
4 retirement program, the employer shall pay retirement  
5 contributions in an amount equal to the unfunded actuarial  
6 liability portion of the employer contribution which would be  
7 required for regular members of the Florida Retirement System.  
8 Effective July 1, 1991, contributions shall be made as  
9 provided in s. 121.122 for retirees with renewed membership or  
10 subsection (13) with respect to DROP participants.

11           8. Any person who has previously retired and who is  
12 holding an elective public office or an appointment to an  
13 elective public office eligible for the Elected Officers'  
14 Class on or after July 1, 1990, shall be enrolled in the  
15 Florida Retirement System as provided in s. 121.053(1)(b) or,  
16 if holding an elective public office that does not qualify for  
17 the Elected Officers' Class on or after July 1, 1991, shall be  
18 enrolled in the Florida Retirement System as provided in s.  
19 121.122, and shall continue to receive retirement benefits as  
20 well as compensation for the elected officer's service for as  
21 long as he or she remains in elective office. However, any  
22 retired member who served in an elective office prior to July  
23 1, 1990, suspended his or her retirement benefit, and had his  
24 or her Florida Retirement System membership reinstated shall,  
25 upon retirement from such office, have his or her retirement  
26 benefit recalculated to include the additional service and  
27 compensation earned.

28           9. Any person who is holding an elective public office  
29 which is covered by the Florida Retirement System and who is  
30 concurrently employed in nonelected covered employment may  
31 elect to retire while continuing employment in the elective



1 public office, provided that he or she shall be required to  
2 terminate his or her nonelected covered employment. Any  
3 person who exercises this election shall receive his or her  
4 retirement benefits in addition to the compensation of the  
5 elective office without regard to the time limitations  
6 otherwise provided in this subsection. No person who seeks to  
7 exercise the provisions of this subparagraph, as the same  
8 existed prior to May 3, 1984, shall be deemed to be retired  
9 under those provisions, unless such person is eligible to  
10 retire under the provisions of this subparagraph, as amended  
11 by chapter 84-11, Laws of Florida.

12         10. The limitations of this paragraph apply to  
13 reemployment in any capacity with an "employer" as defined in  
14 s. 121.021(10), irrespective of the category of funds from  
15 which the person is compensated.

16         11. From July 1, 1997, through December 31, 1998,  
17 notwithstanding the limitations of this subsection, except  
18 that any retiree who is reemployed within 1 calendar month  
19 after retirement shall void his or her application for  
20 retirement benefits, any retiree of the Florida Retirement  
21 System may be reemployed by a covered employer during the 2nd  
22 through 12th months of the reemployment limitation period  
23 without suspending his or her retirement benefits, provided  
24 that the reemployment is for the sole purpose of working on  
25 the technical aspects of correcting or replacing the computer  
26 systems and programs necessary to resolve the year 2000 date  
27 problem for computing which confronts all public employers  
28 covered by the Florida Retirement System.

29         (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,  
30 and subject to the provisions of this section, the Deferred  
31 Retirement Option Program, hereinafter referred to as the

1 DROP, is a program under which an eligible member of the  
2 Florida Retirement System may elect to participate, deferring  
3 receipt of retirement benefits while continuing employment  
4 with his or her Florida Retirement System employer. The  
5 deferred monthly benefits shall accrue in the System Trust  
6 Fund on behalf of the participant, plus interest compounded  
7 monthly, for the specified period of the DROP participation,  
8 as provided in paragraph (c). Upon termination of employment,  
9 the participant shall receive the total DROP benefits and  
10 begin to receive the previously determined normal retirement  
11 benefits. Participation in the DROP does not guarantee  
12 employment for the specified period of DROP.

13 (a) Eligibility of member to participate in the  
14 DROP.--All active Florida Retirement System members in a  
15 regularly established position, and all active members of  
16 either the Teachers' Retirement System established in chapter  
17 238 or the State and County Officers' and Employees'  
18 Retirement System established in chapter 122 which systems are  
19 consolidated within the Florida Retirement System under s.  
20 121.011, are eligible to elect participation in the DROP  
21 provided that:

22 1. The member is not a renewed member of the Florida  
23 Retirement System under s. 121.122, or a member of the State  
24 Community College System Optional Retirement Program under s.  
25 121.051, the Senior Management Service Optional Annuity  
26 Program under s. 121.055, or the optional retirement program  
27 for the State University System under s. 121.35.

28 2. Election to participate is made within 12 months  
29 immediately following the date on which the member first  
30 reaches normal retirement date, or, for a member who reaches  
31 normal retirement date based on service before he or she

1 reaches age 62, or age 55 for Special Risk Class members,  
2 election to participate may be deferred to the 12 months  
3 immediately following the date the member attains 57, or age  
4 52 for Special Risk Class members. For a member who first  
5 reached normal retirement date or the deferred eligibility  
6 date described above prior to the effective date of this  
7 section, election to participate shall be made within 12  
8 months after the effective date of this section. A member who  
9 fails to make an election within such 12-month limitation  
10 period shall forfeit all rights to participate in the DROP.  
11 The member shall advise his or her employer and the division  
12 in writing of the date on which the DROP shall begin. Such  
13 beginning date may be subsequent to the 12-month election  
14 period, but must be within the 60-month limitation period as  
15 provided in subparagraph (b)1. When establishing eligibility  
16 of the member to participate in the DROP or the 60-month  
17 maximum participation period, the member may elect to include  
18 or exclude any optional service credit purchased by the member  
19 from the total service used to establish the normal retirement  
20 date. A member with dual normal retirement dates shall be  
21 eligible to elect to participate in DROP within 12 months  
22 after attaining normal retirement date in either class.

23         3. The employer of a member electing to participate in  
24 the DROP, or employers if dually employed, shall acknowledge  
25 in writing to the division the date the member's participation  
26 in the DROP begins and the date the member's employment and  
27 DROP participation will terminate.

28         4. Simultaneous employment of a participant by  
29 additional Florida Retirement System employers subsequent to  
30 the commencement of participation in the DROP shall be  
31 permissible provided such employers acknowledge in writing a

1 DROP termination date no later than the participant's existing  
2 termination date or the 60-month limitation period as provided  
3 in subparagraph (b)1.

4 5. A DROP participant may change employers while  
5 participating in the DROP, subject to the following:

6 a. A change of employment must take place without a  
7 break in service so that the member receives salary for each  
8 month of continuous DROP participation. If a member receives  
9 no salary during a month, DROP participation shall cease  
10 unless the employer verifies a continuation of the employment  
11 relationship for such participant pursuant to s.  
12 121.021(39)(b).

13 b. Such participant and new employer shall notify the  
14 division on forms required by the division as to the identity  
15 of the new employer.

16 c. The new employer shall acknowledge, in writing, the  
17 participant's DROP termination date, which may be extended but  
18 not beyond the original 60-month period provided in  
19 subparagraph (b)1., shall acknowledge liability for any  
20 additional retirement contributions and interest required if  
21 the participant fails to timely terminate employment, and  
22 shall be subject to the adjustment required in  
23 sub-subparagraph (c)5.d. However, certified instructional  
24 personnel of a district school board may continue in the DROP  
25 as long as they are employed in that capacity with a district  
26 school board, subject to annual review of that continuation by  
27 the employer.

28 (b) Participation in the DROP.--

29 1. An eligible member may elect to participate in the  
30 DROP for a period not to exceed a maximum of 60 calendar  
31 months immediately following the date on which the member

1 first reaches his or her normal retirement date or the date to  
2 which he or she is eligible to defer his or her election to  
3 participate as provided in subparagraph (a)2. However, a  
4 member who has reached normal retirement date prior to the  
5 effective date of the DROP shall be eligible to participate in  
6 the DROP for a period of time not to exceed 60 calendar months  
7 immediately following the effective date of the DROP, except a  
8 member of the Special Risk Class who has reached normal  
9 retirement date prior to the effective date of the DROP and  
10 whose total accrued value exceeds 75 percent of average final  
11 compensation as of his or her effective date of retirement  
12 shall be eligible to participate in the DROP for no more than  
13 36 calendar months immediately following the effective date of  
14 the DROP; however, certified instructional personnel of a  
15 district school board may continue in the DROP as long as they  
16 are employed in that capacity with a district school board,  
17 subject to annual review of that continuation by the employer.

- 18           2. Upon deciding to participate in the DROP, the  
19 member shall submit, on forms required by the division:
- 20           a. A written election to participate in the DROP;
  - 21           b. Selection of the DROP participation and termination  
22 dates, which satisfy the limitations stated in paragraph (a)  
23 and subparagraph 1. Such termination date shall be in a  
24 binding letter of resignation with the employer, establishing  
25 a deferred termination date. The member may change the  
26 termination date within the limitations of subparagraph 1.,  
27 but only with the written approval of his or her employer;
  - 28           c. A properly completed DROP application for service  
29 retirement as provided in this section; and
  - 30           d. Any other information required by the division.

31

1           3. The DROP participant shall be a retiree under the  
2 Florida Retirement System for all purposes, except for  
3 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,  
4 121.053, and 121.122. However, participation in the DROP does  
5 not alter the participant's employment status and such  
6 employee shall not be deemed retired from employment until his  
7 or her deferred resignation is effective and termination  
8 occurs as provided in s. 121.021(39).

9           4. Elected officers shall be eligible to participate  
10 in the DROP subject to the following:

11           a. An elected officer who reaches normal retirement  
12 date during a term of office may defer the election to  
13 participate in the DROP until the next succeeding term in that  
14 office. Such elected officer who exercises this option may  
15 participate in the DROP for up to 60 calendar months or a  
16 period of no longer than such succeeding term of office,  
17 whichever is less.

18           b. An elected or a nonelected participant may run for  
19 a term of office while participating in DROP and, if elected,  
20 extend the DROP termination date accordingly, except, however,  
21 if such additional term of office exceeds the 60-month  
22 limitation established in subparagraph 1., and the officer  
23 does not resign from office within such 60-month limitation,  
24 the retirement and the participant's DROP shall be null and  
25 void as provided in sub-subparagraph (c)5.d.

26           c. An elected officer who is dually employed and  
27 elects to participate in DROP shall be required to satisfy the  
28 definition of termination within the 60-month limitation  
29 period as provided in subparagraph 1. for the nonelected  
30 position and may continue employment as an elected officer as  
31 provided in s. 121.053. The elected officer will be enrolled

1 as a renewed member in the Elected Officers' Class or the  
2 Regular Class, as provided in ss. 121.053 and 121.22, on the  
3 first day of the month after termination of employment in the  
4 nonelected position and termination of DROP. Distribution of  
5 the DROP benefits shall be made as provided in paragraph (c).

6 Section 2. The Legislature finds that a proper and  
7 legitimate state purpose is served when employees and retirees  
8 of the state and of its political subdivisions, and the  
9 dependents, survivors, and beneficiaries of such employees and  
10 retirees, are extended the basic protections afforded by  
11 governmental retirement systems that provide fair and adequate  
12 benefits that are managed, administered, and funded in an  
13 actuarially sound manner, as required by section 14 of Article  
14 X of the State Constitution and part VII of chapter 112,  
15 Florida Statutes. Therefore, the Legislature determines and  
16 declares that this act fulfills an important state interest.

17 Section 3. This act shall take effect July 1, 2001.

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19  
20 SENATE SUMMARY

21 Allows reemployment of district school board  
22 instructional personnel within 12 months after retirement  
23 without loss of retirement benefit. Authorizes such  
24 personnel to continue in the Deferred Retirement Option  
25 Program beyond the normal cutoff for such participation.  
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