

By the Committee on Governmental Oversight and Productivity

302-561A-03

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A bill to be entitled
An act relating to retirement; amending s.
121.091, F.S.; revising certain limitations on
positions for which a district school board may
employ a member after a specified period of
retirement; amending s. 121.71, F.S.; revising
the payroll contribution rates for the defined
benefit plan of the Florida Retirement System
for the 2003-2004 fiscal year; providing a
declaration of important state interest;
providing an effective date.

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

Section 1. Subsection (9) of section 121.091, Florida
Statutes, is amended to read:

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

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

1 (a) Any person who is retired under this chapter,
2 except under the disability retirement provisions of
3 subsection (4), may be employed by an employer that does not
4 participate in a state-administered retirement system and may
5 receive compensation from that employment without limiting or
6 restricting in any way the retirement benefits payable to that
7 person.

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

21 2. Any person to whom the limitation in subparagraph
22 1. applies who violates such reemployment limitation and who
23 is reemployed with any agency participating in the Florida
24 Retirement System before completion of the 12-month limitation
25 period shall give timely notice of this fact in writing to the
26 employer and to the division and shall have his or her
27 retirement benefits suspended for the balance of the 12-month
28 limitation period. Any person employed in violation of this
29 paragraph and any employing agency which knowingly employs or
30 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 while reemployed during this
7 reemployment limitation period shall be repaid to the
8 retirement trust fund, and retirement benefits shall remain
9 suspended until such repayment has been made. Benefits
10 suspended beyond the reemployment limitation shall apply
11 toward repayment of benefits received in violation of the
12 reemployment limitation.

13 3. A district school board may reemploy a retired
14 member as instructional personnel or administrative personnel
15 certified as instructional personnel or as an ~~a substitute or~~
16 ~~hourly teacher~~, education paraprofessional, transportation
17 assistant, bus driver, or food service worker on a contractual
18 or noncontractual basis after he or she has been retired for 1
19 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. District school boards reemploying such teachers,
23 education paraprofessionals, transportation assistants, bus
24 drivers, or food service workers are subject to the retirement
25 contribution required by subparagraph 7. Reemployment of a
26 retired member as a substitute or hourly teacher, education
27 paraprofessional, transportation assistant, bus driver, or
28 food service worker is limited to 780 hours during the first
29 12 months of his or her retirement. Any retired member
30 reemployed for more than 780 hours during his or her first 12
31 months of retirement shall give timely notice in writing to

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

21 4. A community college board of trustees may reemploy
22 a retired member as an adjunct instructor, that is, an
23 instructor who is noncontractual and part-time, or as a
24 participant in a phased retirement program within the Florida
25 Community College System, after he or she has been retired for
26 1 calendar month, in accordance with s. 121.021(39). Any
27 retired member who is reemployed within 1 calendar month after
28 retirement shall void his or her application for retirement
29 benefits. Boards of trustees reemploying such instructors are
30 subject to the retirement contribution required in
31 subparagraph 7. A retired member may be reemployed as an

1 adjunct instructor for no more than 780 hours during the first
2 12 months of retirement. Any retired member reemployed for
3 more than 780 hours during the first 12 months of retirement
4 shall give timely notice in writing to the employer and to the
5 division of the date he or she will exceed the limitation.
6 The division shall suspend his or her retirement benefits for
7 the remainder of the first 12 months of retirement. Any
8 person employed in violation of this subparagraph and any
9 employing agency which knowingly employs or appoints such
10 person without notifying the Division of Retirement to suspend
11 retirement benefits shall be jointly and severally liable for
12 reimbursement to the retirement trust fund of any benefits
13 paid during the reemployment limitation period. To avoid
14 liability, such employing agency shall have a written
15 statement from the retiree that he or she is not retired from
16 a state-administered retirement system. Any retirement
17 benefits received by a retired member while reemployed in
18 excess of 780 hours during the first 12 months of retirement
19 shall be repaid to the Retirement System Trust Fund, and
20 retirement benefits shall remain suspended until repayment is
21 made. Benefits suspended beyond the end of the retired
22 member's first 12 months of retirement shall apply toward
23 repayment of benefits received in violation of the 780-hour
24 reemployment limitation.

25 5. The State University System may reemploy a retired
26 member as an adjunct faculty member or as a participant in a
27 phased retirement program within the State University System
28 after the retired member has been retired for 1 calendar
29 month, in accordance with s. 121.021(39). Any retired member
30 who is reemployed within 1 calendar month after retirement
31 shall void his or her application for retirement benefits.

1 The State University System is subject to the retired
2 contribution required in subparagraph 7., as appropriate. A
3 retired member may be reemployed as an adjunct faculty member
4 or a participant in a phased retirement program for no more
5 than 780 hours during the first 12 months of his or her
6 retirement. Any retired member reemployed for more than 780
7 hours during the first 12 months of retirement shall give
8 timely notice in writing to the employer and to the division
9 of the date he or she will exceed the limitation. The
10 division shall suspend his or her retirement benefits for the
11 remainder of the first 12 months of retirement. Any person
12 employed in violation of this subparagraph and any employing
13 agency which knowingly employs or appoints such person without
14 notifying the Division of Retirement to suspend retirement
15 benefits shall be jointly and severally liable for
16 reimbursement to the retirement trust fund of any benefits
17 paid during the reemployment limitation period. To avoid
18 liability, such employing agency shall have a written
19 statement from the retiree that he or she is not retired from
20 a state-administered retirement system. Any retirement
21 benefits received by a retired member while reemployed in
22 excess of 780 hours during the first 12 months of retirement
23 shall be repaid to the Retirement System Trust Fund, and
24 retirement benefits shall remain suspended until repayment is
25 made. Benefits suspended beyond the end of the retired
26 member's first 12 months of retirement shall apply toward
27 repayment of benefits received in violation of the 780-hour
28 reemployment limitation.

29 6. The Board of Trustees of the Florida School for the
30 Deaf and the Blind may reemploy a retired member as a
31 substitute teacher, substitute residential instructor, or

1 substitute nurse on a noncontractual basis after he or she has
2 been retired for 1 calendar month, in accordance with s.
3 121.021(39). Any retired member who is reemployed within 1
4 calendar month after retirement shall void his or her
5 application for retirement benefits. The Board of Trustees of
6 the Florida School for the Deaf and the Blind reemploying such
7 teachers, residential instructors, or nurses is subject to the
8 retirement contribution required by subparagraph 7.
9 Reemployment of a retired member as a substitute teacher,
10 substitute residential instructor, or substitute nurse is
11 limited to 780 hours during the first 12 months of his or her
12 retirement. Any retired member reemployed for more than 780
13 hours during the first 12 months of retirement shall give
14 timely notice in writing to the employer and to the division
15 of the date he or she will exceed the limitation. The division
16 shall suspend his or her retirement benefits for the remainder
17 of the first 12 months of retirement. Any person employed in
18 violation of this subparagraph and any employing agency which
19 knowingly employs or appoints such person without notifying
20 the Division of Retirement to suspend retirement benefits
21 shall be jointly and severally liable for reimbursement to the
22 retirement trust fund of any benefits paid during the
23 reemployment limitation period. To avoid liability, such
24 employing agency shall have a written statement from the
25 retiree that he or she is not retired from a
26 state-administered retirement system. Any retirement benefits
27 received by a retired member while reemployed in excess of 780
28 hours during the first 12 months of retirement shall be repaid
29 to the Retirement System Trust Fund, and his or her retirement
30 benefits shall remain suspended until payment is made.
31 Benefits suspended beyond the end of the retired member's

1 first 12 months of retirement shall apply toward repayment of
2 benefits received in violation of the 780-hour reemployment
3 limitation.

4 7. The employment by an employer of any retiree or
5 DROP participant of any state-administered retirement system
6 shall have no effect on the average final compensation or
7 years of creditable service of the retiree or DROP
8 participant. Prior to July 1, 1991, upon employment of any
9 person, other than an elected officer as provided in s.
10 121.053, who has been retired under any state-administered
11 retirement program, the employer shall pay retirement
12 contributions in an amount equal to the unfunded actuarial
13 liability portion of the employer contribution which would be
14 required for regular members of the Florida Retirement System.
15 Effective July 1, 1991, contributions shall be made as
16 provided in s. 121.122 for retirees with renewed membership or
17 subsection (13) with respect to DROP participants.

18 8. Any person who has previously retired and who is
19 holding an elective public office or an appointment to an
20 elective public office eligible for the Elected Officers'
21 Class on or after July 1, 1990, shall be enrolled in the
22 Florida Retirement System as provided in s. 121.053(1)(b) or,
23 if holding an elective public office that does not qualify for
24 the Elected Officers' Class on or after July 1, 1991, shall be
25 enrolled in the Florida Retirement System as provided in s.
26 121.122, and shall continue to receive retirement benefits as
27 well as compensation for the elected officer's service for as
28 long as he or she remains in elective office. However, any
29 retired member who served in an elective office prior to July
30 1, 1990, suspended his or her retirement benefit, and had his
31 or her Florida Retirement System membership reinstated shall,

1 upon retirement from such office, have his or her retirement
2 benefit recalculated to include the additional service and
3 compensation earned.

4 9. Any person who is holding an elective public office
5 which is covered by the Florida Retirement System and who is
6 concurrently employed in nonelected covered employment may
7 elect to retire while continuing employment in the elective
8 public office, provided that he or she shall be required to
9 terminate his or her nonelected covered employment. Any
10 person who exercises this election shall receive his or her
11 retirement benefits in addition to the compensation of the
12 elective office without regard to the time limitations
13 otherwise provided in this subsection. No person who seeks to
14 exercise the provisions of this subparagraph, as the same
15 existed prior to May 3, 1984, shall be deemed to be retired
16 under those provisions, unless such person is eligible to
17 retire under the provisions of this subparagraph, as amended
18 by chapter 84-11, Laws of Florida.

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

23 11. An employing agency may reemploy a retired member
24 as a firefighter or paramedic after the retired member has
25 been retired for 1 calendar month, in accordance with s.
26 121.021(39). Any retired member who is reemployed within 1
27 calendar month after retirement shall void his or her
28 application for retirement benefits. The employing agency
29 reemploying such firefighter or paramedic is subject to the
30 retired contribution required in subparagraph 8. Reemployment
31 of a retired firefighter or paramedic is limited to no more

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

24 Section 2. Section 121.71, Florida Statutes, is
25 amended to read:

26 121.71 Uniform rates; process; calculations; levy.--

27 (1) In conducting the system actuarial study required
28 under s. 121.031, the actuary shall follow all requirements
29 specified thereunder to determine, by Florida Retirement
30 System employee membership class, the dollar contribution
31 amounts necessary for the forthcoming fiscal year for the

1 defined benefit program. In addition, the actuary shall
2 determine, by Florida Retirement System membership class,
3 based on an estimate for the forthcoming fiscal year of the
4 gross compensation of employees participating in the optional
5 retirement program, the dollar contribution amounts necessary
6 to make the allocations required under ss. 121.72 and 121.73.
7 For each employee membership class and subclass, the actuarial
8 study shall establish a uniform rate necessary to fund the
9 benefit obligations under both Florida Retirement System
10 retirement plans, by dividing the sum of total dollars
11 required by the estimated gross compensation of members in
12 both plans.

13 (2) Based on the uniform rates set forth in subsection
14 (3), employers shall make monthly contributions to the
15 Division of Retirement, which shall initially deposit the
16 funds into the Florida Retirement System Contributions
17 Clearing Trust Fund. A change in a contribution rate is
18 effective the first day of the month for which a full month's
19 employer contribution may be made on or after the beginning
20 date of the change.

21 (3) Required employer retirement contribution rates
22 for each membership class and subclass of the Florida
23 Retirement System for both retirement plans are as follows:
24 Rates effective July 1, 2003 ~~2002~~, reflect an offset to normal
25 employer costs of \$ ~~\$1,237,000,000~~, resulting from
26 recognition and usage of current available excess assets of
27 the Florida Retirement System Trust Fund as determined
28 pursuant to s. 121.031. Contribution rates that become
29 effective July 1, 2004 ~~2003~~, reflect normal system costs.

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| | Percentage of Gross Compensation, Effective July 1, 2002 | Percentage of Gross Compensation, Effective July 1, 2003 |
|---|--|--|
| Membership Class | | |
| Regular Class | <u>%4.50%</u> | % 9.87% |
| Special Risk Class | <u>%14.75%</u> | % 22.89% |
| Special Risk Administrative Support Class | <u>%5.30%</u> | % 12.58% |
| Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders | <u>%8.15%</u> | % 15.43% |
| Elected Officers' Class - Justices, Judges | <u>%14.60%</u> | % 20.54% |
| Elected Officers' Class - County Elected Officers | <u>%10.60%</u> | % 17.52% |
| Senior Management Class | <u>%4.80%</u> | % 11.68% |
| DROP | <u>%8.00%</u> | % 11.56% |

(4) Notwithstanding the provisions of subsection (3), and for the fiscal year 2003-2004 ~~2002-2003~~ only, the state actuary shall recognize and use an appropriate level of available excess assets of the Florida Retirement System Trust Fund to offset the difference between the normal costs of the Florida Retirement System and the statutorily prescribed contribution rates. This subsection expires July 1, 2004 ~~2003~~.

Section 3. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees

1 of the state and its political subdivisions, and the
2 dependents, survivors, and beneficiaries of such employees and
3 retirees, are extended the basic protections afforded by
4 governmental retirement systems. These persons must be
5 provided benefits that are fair and adequate and that are
6 managed, administered, and funded in an actuarially sound
7 manner, as required by Section 14, Article X of the State
8 Constitution, and part VII of chapter 112, Florida Statutes.
9 Therefore, the Legislature hereby determines and declares that
10 this act fulfills an important state interest.

11 Section 4. This act shall take effect July 1, 2003.

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14 SENATE SUMMARY

15 Authorizes a district school board to reemploy certain
16 retired instructional personnel following 1 month of
17 retirement. Revises the payroll contribution rates for
the defined benefit plan of the Florida Retirement System
for the 2003-2004 fiscal year.

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