

Bill No. SB 1446

Barcode 404016

CHAMBER ACTION

Senate

House

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The Committee on Governmental Oversight and Productivity  
(Argenziano) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 1, line 26,

insert:

Section 1. Subsection (39) of section 121.021, Florida  
Statutes, is amended to read:

121.021 Definitions.--The following words and phrases  
as used in this chapter have the respective meanings set forth  
unless a different meaning is plainly required by the context:

(39)(a) "Termination" occurs, except as provided in  
paragraph (b), when a member ceases all employment  
relationships with employers under this system, as defined in  
subsection (10), but in the event a member should be 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 that a leave of absence without pay due  
to disability may constitute termination for a member, if such

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1 member makes application for and is approved for disability  
 2 retirement in accordance with s. 121.091(4). The department  
 3 or board may require other evidence of termination as it deems  
 4 necessary.

5 (b) "Termination" for a member electing to participate  
 6 under the Deferred Retirement Option Program occurs when the  
 7 Deferred Retirement Option Program participant ceases all  
 8 employment relationships with employers under this system in  
 9 accordance with s. 121.091(13), but in the event the Deferred  
 10 Retirement Option Program participant should be employed by  
 11 any such employer within the next calendar month, termination  
 12 will be deemed not to have occurred, except as provided in s.  
 13 121.091(13)(b)4.c. A leave of absence shall constitute a  
 14 continuation of the employment relationship.

15 Section 2. Subsection (9) of section 121.091, Florida  
 16 Statutes, is amended to read:

17 121.091 Benefits payable under the system.--Benefits  
 18 may not be paid under this section unless the member has  
 19 terminated employment as provided in s. 121.021(39)(a) or  
 20 begun participation in the Deferred Retirement Option Program  
 21 as provided in subsection (13), and a proper application has  
 22 been filed in the manner prescribed by the department. The  
 23 department may cancel an application for retirement benefits  
 24 when the member or beneficiary fails to timely provide the  
 25 information and documents required by this chapter and the  
 26 department's rules. The department shall adopt rules  
 27 establishing procedures for application for retirement  
 28 benefits and for the cancellation of such application when the  
 29 required information or documents are not received.

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

31 (a) Any person who is retired under this chapter,

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

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

20 |         2. Any person to whom the limitation in subparagraph  
 21 | 1. applies who violates such reemployment limitation and who  
 22 | is reemployed with any agency participating in the Florida  
 23 | Retirement System before completion of the 12-month limitation  
 24 | period shall give timely notice of this fact in writing to the  
 25 | employer and to the division and shall have his or her  
 26 | retirement benefits suspended for the balance of the 12-month  
 27 | limitation period. Any person employed in violation of this  
 28 | paragraph and any employing agency which knowingly employs or  
 29 | appoints such person without notifying the Division of  
 30 | Retirement to suspend retirement benefits shall be jointly and  
 31 | severally liable for reimbursement to the retirement trust

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1 fund of any benefits paid during the reemployment limitation  
2 period. To avoid liability, such employing agency shall have  
3 a written statement from the retiree that he or she is not  
4 retired from a state-administered retirement system. Any  
5 retirement benefits received while reemployed during this  
6 reemployment limitation period shall be repaid to the  
7 retirement trust fund, and retirement benefits shall remain  
8 suspended until such repayment has been made. Benefits  
9 suspended beyond the reemployment limitation shall apply  
10 toward repayment of benefits received in violation of the  
11 reemployment limitation.

12           3. A district school board may reemploy a retired  
13 member as a substitute or hourly teacher, education  
14 paraprofessional, transportation assistant, bus driver, or  
15 food service worker on a noncontractual basis after he or she  
16 has been retired for 1 calendar month, in accordance with s.  
17 121.021(39). A district school board may reemploy a retired  
18 member as instructional personnel, as defined in s.  
19 1012.01(2)(a), on an annual contractual basis after he or she  
20 has been retired for 1 calendar month, in accordance with s.  
21 121.021(39). Any other retired member who is reemployed within  
22 1 calendar month after retirement shall void his or her  
23 application for retirement benefits. District school boards  
24 reemploying such teachers, education paraprofessionals,  
25 transportation assistants, bus drivers, or food service  
26 workers are subject to the retirement contribution required by  
27 subparagraph 7.

28           4. A community college board of trustees may reemploy  
29 a retired member as an adjunct instructor, that is, an  
30 instructor who is noncontractual and part-time, or as a  
31 participant in a phased retirement program within the Florida

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1 Community College System, after he or she has been retired for  
2 1 calendar month, in accordance with s. 121.021(39). Any  
3 retired member who is reemployed within 1 calendar month after  
4 retirement shall void his or her application for retirement  
5 benefits. Boards of trustees reemploying such instructors are  
6 subject to the retirement contribution required in  
7 subparagraph 7. A retired member may be reemployed as an  
8 adjunct instructor for no more than 780 hours during the first  
9 12 months of retirement. Any retired member reemployed for  
10 more than 780 hours during the first 12 months of retirement  
11 shall give timely notice in writing to the employer and to the  
12 division of the date he or she will exceed the limitation.  
13 The division shall suspend his or her retirement benefits for  
14 the remainder of the first 12 months of retirement. Any  
15 person employed in violation of this subparagraph and any  
16 employing agency which knowingly employs or appoints such  
17 person without notifying the Division of Retirement to suspend  
18 retirement benefits shall be jointly and severally liable for  
19 reimbursement to the retirement trust fund of any benefits  
20 paid during the reemployment limitation period. To avoid  
21 liability, such employing agency shall have a written  
22 statement from the retiree that he or she is not retired from  
23 a state-administered retirement system. Any retirement  
24 benefits received by a retired member while reemployed in  
25 excess of 780 hours during the first 12 months of retirement  
26 shall be repaid to the Retirement System Trust Fund, and  
27 retirement benefits shall remain suspended until repayment is  
28 made. Benefits suspended beyond the end of the retired  
29 member's first 12 months of retirement shall apply toward  
30 repayment of benefits received in violation of the 780-hour  
31 reemployment limitation.

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1           5. The State University System may reemploy a retired  
2 member as an adjunct faculty member or as a participant in a  
3 phased retirement program within the State University System  
4 after the retired member has been retired for 1 calendar  
5 month, in accordance with s. 121.021(39). Any retired member  
6 who is reemployed within 1 calendar month after retirement  
7 shall void his or her application for retirement benefits.  
8 The State University System is subject to the retired  
9 contribution required in subparagraph 7., as appropriate. A  
10 retired member may be reemployed as an adjunct faculty member  
11 or a participant in a phased retirement program for no more  
12 than 780 hours during the first 12 months of his or her  
13 retirement. Any retired member reemployed for more than 780  
14 hours during the first 12 months of retirement shall give  
15 timely notice in writing to the employer and to the division  
16 of the date he or she will exceed the limitation. The  
17 division shall suspend his or her retirement benefits for the  
18 remainder of the first 12 months of retirement. Any person  
19 employed in violation of this subparagraph and any employing  
20 agency which knowingly employs or appoints such person without  
21 notifying the Division of Retirement to suspend retirement  
22 benefits shall be jointly and severally liable for  
23 reimbursement to the retirement trust fund of any benefits  
24 paid during the reemployment limitation period. To avoid  
25 liability, such employing agency shall have a written  
26 statement from the retiree that he or she is not retired from  
27 a state-administered retirement system. Any retirement  
28 benefits received by a retired member while reemployed in  
29 excess of 780 hours during the first 12 months of retirement  
30 shall be repaid to the Retirement System Trust Fund, and  
31 retirement benefits shall remain suspended until repayment is

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1 made. Benefits suspended beyond the end of the retired  
 2 member's first 12 months of retirement shall apply toward  
 3 repayment of benefits received in violation of the 780-hour  
 4 reemployment limitation.

5           6. The Board of Trustees of the Florida School for the  
 6 Deaf and the Blind may reemploy a retired member as a  
 7 substitute teacher, substitute residential instructor, or  
 8 substitute nurse on a noncontractual basis after he or she has  
 9 been retired for 1 calendar month, in accordance with s.  
 10 121.021(39). Any retired member who is reemployed within 1  
 11 calendar month after retirement shall void his or her  
 12 application for retirement benefits. The Board of Trustees of  
 13 the Florida School for the Deaf and the Blind reemploying such  
 14 teachers, residential instructors, or nurses is subject to the  
 15 retirement contribution required by subparagraph 7.  
 16 Reemployment of a retired member as a substitute teacher,  
 17 substitute residential instructor, or substitute nurse is  
 18 limited to 780 hours during the first 12 months of his or her  
 19 retirement. Any retired member reemployed for more than 780  
 20 hours during the first 12 months of retirement shall give  
 21 timely notice in writing to the employer and to the division  
 22 of the date he or she will exceed the limitation. The division  
 23 shall suspend his or her retirement benefits for the remainder  
 24 of the first 12 months of retirement. Any person employed in  
 25 violation of this subparagraph and any employing agency which  
 26 knowingly employs or appoints such person without notifying  
 27 the Division of Retirement to suspend retirement benefits  
 28 shall be jointly and severally liable for reimbursement to the  
 29 retirement trust fund of any benefits paid during the  
 30 reemployment limitation period. To avoid liability, such  
 31 employing agency shall have a written statement from the

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1 retiree that he or she is not retired from a  
2 state-administered retirement system. Any retirement benefits  
3 received by a retired member while reemployed in excess of 780  
4 hours during the first 12 months of retirement shall be repaid  
5 to the Retirement System Trust Fund, and his or her retirement  
6 benefits shall remain suspended until payment is made.  
7 Benefits suspended beyond the end of the retired member's  
8 first 12 months of retirement shall apply toward repayment of  
9 benefits received in violation of the 780-hour reemployment  
10 limitation.

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

25           8. Any person who has previously retired and who is  
26 holding an elective public office or an appointment to an  
27 elective public office eligible for the Elected Officers'  
28 Class on or after July 1, 1990, shall be enrolled in the  
29 Florida Retirement System as provided in s. 121.053(1)(b) or,  
30 if holding an elective public office that does not qualify for  
31 the Elected Officers' Class on or after July 1, 1991, shall be



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1 enrolled in the Florida Retirement System as provided in s.  
2 121.122, and shall continue to receive retirement benefits as  
3 well as compensation for the elected officer's service for as  
4 long as he or she remains in elective office. However, any  
5 retired member who served in an elective office prior to July  
6 1, 1990, suspended his or her retirement benefit, and had his  
7 or her Florida Retirement System membership reinstated shall,  
8 upon retirement from such office, have his or her retirement  
9 benefit recalculated to include the additional service and  
10 compensation earned.

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

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

30           11. An employing agency may reemploy a retired member  
31 as a firefighter or paramedic after the retired member has

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1 | been retired for 1 calendar month, in accordance with s.  
2 | 121.021(39). Any retired member who is reemployed within 1  
3 | calendar month after retirement shall void his or her  
4 | application for retirement benefits. The employing agency  
5 | reemploying such firefighter or paramedic is subject to the  
6 | retired contribution required in subparagraph 8. Reemployment  
7 | of a retired firefighter or paramedic is limited to no more  
8 | than 780 hours during the first 12 months of his or her  
9 | retirement. Any retired member reemployed for more than 780  
10 | hours during the first 12 months of retirement shall give  
11 | timely notice in writing to the employer and to the division  
12 | of the date he or she will exceed the limitation. The division  
13 | shall suspend his or her retirement benefits for the remainder  
14 | of the first 12 months of retirement. Any person employed in  
15 | violation of this subparagraph and any employing agency which  
16 | knowingly employs or appoints such person without notifying  
17 | the Division of Retirement to suspend retirement benefits  
18 | shall be jointly and severally liable for reimbursement to the  
19 | Retirement System Trust Fund of any benefits paid during the  
20 | reemployment limitation period. To avoid liability, such  
21 | employing agency shall have a written statement from the  
22 | retiree that he or she is not retired from a  
23 | state-administered retirement system. Any retirement benefits  
24 | received by a retired member while reemployed in excess of 780  
25 | hours during the first 12 months of retirement shall be repaid  
26 | to the Retirement System Trust Fund, and retirement benefits  
27 | shall remain suspended until repayment is made. Benefits  
28 | suspended beyond the end of the retired member's first 12  
29 | months of retirement shall apply toward repayment of benefits  
30 | received in violation of the 780-hour reemployment limitation.

31 | (c) The provisions of this subsection apply to

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1 retirees, as defined in s. 121.4501(2)(j), F.S., of the Public  
2 Employee Optional Retirement Program created in Part II of  
3 this Chapter, subject to the following conditions:

4       1. Such retirees may not be reemployed with an  
5 employer participating in the Florida Retirement System as  
6 provided in paragraph (b) until such person has been retired  
7 for 3 calendar months, unless the participant has reached the  
8 normal retirement requirements of the defined benefit plan as  
9 provided in s. 121.021(29), F.S.

10       2. Such retiree employed in violation of this  
11 subsection and any employing agency which knowingly employs or  
12 appoints such person shall be jointly and severally liable for  
13 reimbursement of any benefits paid to the retirement trust  
14 fund from which the benefits were paid, including the  
15 Retirement System Trust Fund and the Public Employee Optional  
16 Retirement Program Trust Fund, as appropriate. To avoid  
17 liability, such employing agency shall have a written  
18 statement from the retiree that he or she is not retired from  
19 a state-administered retirement system.

20  
21 (Redesignate subsequent sections.)

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23

24 ===== T I T L E   A M E N D M E N T =====

25 And the title is amended as follows:

26       On page 1, line 2, after the semicolon

27

28 insert:

29       amending s. 121.021, F.S., clarifying that the  
30       State Board of Administration may require  
31       evidence of termination; amending s. 121.091,

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1 F.S., to provide that a member of the Public  
2 Employee Optional Retirement Program may not  
3 return to employment with an employer under the  
4 Florida Retirement System until after being  
5 terminated for 3 calendar months; providing an  
6 exception for those members who have reached  
7 the normal retirement requirements of the  
8 defined benefit plan;

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