

By Senator Clary

4-369-05

1 A bill to be entitled
2 An act relating to public school employment;
3 amending s. 121.091, F.S.; authorizing
4 reemployment of, and extended DROP
5 participation by, persons formerly serving as
6 administrative personnel in the same manner as
7 retired instructional personnel; providing an
8 effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Paragraph (b) of subsection (9) and
13 paragraphs (a) and (b) of subsection (13) of section 121.091,
14 Florida Statutes, are amended to read:

15 121.091 Benefits payable under the system.--Benefits
16 may not be paid under this section unless the member has
17 terminated employment as provided in s. 121.021(39)(a) or
18 begun participation in the Deferred Retirement Option Program
19 as provided in subsection (13), and a proper application has
20 been filed in the manner prescribed by the department. The
21 department may cancel an application for retirement benefits
22 when the member or beneficiary fails to timely provide the
23 information and documents required by this chapter and the
24 department's rules. The department shall adopt rules
25 establishing procedures for application for retirement
26 benefits and for the cancellation of such application when the
27 required information or documents are not received.

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

29 (b)1. Any person who is retired under this chapter,
30 except under the disability retirement provisions of
31 subsection (4), may be reemployed by any private or public

1 | employer after retirement and receive retirement benefits and
2 | compensation from his or her employer without any limitations,
3 | except that a person may not receive both a salary from
4 | reemployment with any agency participating in the Florida
5 | Retirement System and retirement benefits under this chapter
6 | for a period of 12 months immediately subsequent to the date
7 | of retirement. However, a DROP participant shall continue
8 | employment and receive a salary during the period of
9 | participation in the Deferred Retirement Option Program, as
10 | provided in subsection (13).

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

1 toward repayment of benefits received in violation of the
2 reemployment limitation.

3 3. A district school board may reemploy a retired
4 member as a substitute or hourly teacher, education
5 paraprofessional, transportation assistant, bus driver, or
6 food service worker on a noncontractual basis after he or she
7 has been retired for 1 calendar month, in accordance with s.
8 121.021(39). A district school board may reemploy a retired
9 member as instructional personnel, as defined in s.
10 1012.01(2)(a), or as administrative personnel, as defined in
11 s. 1012.01(3), on an annual contractual basis after he or she
12 has been retired for 1 calendar month, in accordance with s.
13 121.021(39). Any other retired member who is reemployed within
14 1 calendar month after retirement shall void his or her
15 application for retirement benefits. District school boards
16 reemploying such teachers, education paraprofessionals,
17 transportation assistants, bus drivers, or food service
18 workers are subject to the retirement contribution required by
19 subparagraph 7.

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

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

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

1 contribution required in subparagraph 7., as appropriate. A
2 retired member may be reemployed as an adjunct faculty member
3 or a participant in a phased retirement program for no more
4 than 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
9 division shall suspend his or her retirement benefits for the
10 remainder of the first 12 months of retirement. Any person
11 employed in violation of this subparagraph and any employing
12 agency which knowingly employs or appoints such person without
13 notifying the Division of Retirement to suspend retirement
14 benefits shall be jointly and severally liable for
15 reimbursement to the retirement trust fund of any benefits
16 paid during the reemployment limitation period. 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. Any retirement
20 benefits received by a retired member while reemployed in
21 excess of 780 hours during the first 12 months of retirement
22 shall be repaid to the Retirement System Trust Fund, and
23 retirement benefits shall remain suspended until repayment is
24 made. Benefits suspended beyond the end of the retired
25 member's first 12 months of retirement shall apply toward
26 repayment of benefits received in violation of the 780-hour
27 reemployment limitation.

28 6. The Board of Trustees of the Florida School for the
29 Deaf and the Blind may reemploy a retired member as a
30 substitute teacher, substitute residential instructor, or
31 substitute nurse on a noncontractual basis after he or she has

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

1 benefits received in violation of the 780-hour reemployment
2 limitation.

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

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

1 benefit recalculated to include the additional service and
2 compensation earned.

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

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

22 11. An employing agency may reemploy a retired member
23 as a firefighter or paramedic after the retired member has
24 been retired for 1 calendar month, in accordance with s.
25 121.021(39). Any retired member who is reemployed within 1
26 calendar month after retirement shall void his or her
27 application for retirement benefits. The employing agency
28 reemploying such firefighter or paramedic is subject to the
29 retired contribution required in subparagraph 8. Reemployment
30 of a retired firefighter or paramedic is limited to no more
31 than 780 hours during the first 12 months of his or her

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

23 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
24 and subject to the provisions of this section, the Deferred
25 Retirement Option Program, hereinafter referred to as the
26 DROP, is a program under which an eligible member of the
27 Florida Retirement System may elect to participate, deferring
28 receipt of retirement benefits while continuing employment
29 with his or her Florida Retirement System employer. The
30 deferred monthly benefits shall accrue in the System Trust
31 Fund on behalf of the participant, plus interest compounded

1 monthly, for the specified period of the DROP participation,
2 as provided in paragraph (c). Upon termination of employment,
3 the participant shall receive the total DROP benefits and
4 begin to receive the previously determined normal retirement
5 benefits. Participation in the DROP does not guarantee
6 employment for the specified period of DROP. Participation in
7 the DROP by an eligible member beyond the initial 60-month
8 period as authorized in this subsection shall be on an annual
9 contractual basis for all participants.

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

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

25 2. Except as provided in subparagraph 6., election to
26 participate is made within 12 months immediately following the
27 date on which the member first reaches normal retirement date,
28 or, for a member who reaches normal retirement date based on
29 service before he or she reaches age 62, or age 55 for Special
30 Risk Class members, election to participate may be deferred to
31 the 12 months immediately following the date the member

1 | attains 57, or age 52 for Special Risk Class members. For a
2 | member who first reached normal retirement date or the
3 | deferred eligibility date described above prior to the
4 | effective date of this section, election to participate shall
5 | be made within 12 months after the effective date of this
6 | section. A member who fails to make an election within such
7 | 12-month limitation period shall forfeit all rights to
8 | participate in the DROP. The member shall advise his or her
9 | employer and the division in writing of the date on which the
10 | DROP shall begin. Such beginning date may be subsequent to the
11 | 12-month election period, but must be within the 60-month or,
12 | with respect to members who are instructional personnel
13 | employed by the Florida School for the Deaf and the Blind and
14 | who have received authorization by the Board of Trustees of
15 | the Florida School for the Deaf and the Blind to participate
16 | in the DROP beyond 60 months, or who are instructional
17 | personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 or
18 | administrative personnel as defined in s. 1012.01(3) and who
19 | have received authorization by the district school
20 | superintendent to participate in the DROP beyond 60 months,
21 | the 96-month limitation period as provided in subparagraph
22 | (b)1. When establishing eligibility of the member to
23 | participate in the DROP for the 60-month or, with respect to
24 | members who are instructional personnel employed by the
25 | Florida School for the Deaf and the Blind and who have
26 | received authorization by the Board of Trustees of the Florida
27 | School for the Deaf and the Blind to participate in the DROP
28 | beyond 60 months, or who are instructional personnel as
29 | defined in s. 1012.01(2)(a)-(d) or administrative personnel as
30 | defined in s. 1012.01(3) in grades K-12 and who have received
31 | authorization by the district school superintendent to

1 participate in the DROP beyond 60 months, the 96-month maximum
2 participation period, the member may elect to include or
3 exclude any optional service credit purchased by the member
4 from the total service used to establish the normal retirement
5 date. A member with dual normal retirement dates shall be
6 eligible to elect to participate in DROP within 12 months
7 after attaining normal retirement date in either class.

8 3. The employer of a member electing to participate in
9 the DROP, or employers if dually employed, shall acknowledge
10 in writing to the division the date the member's participation
11 in the DROP begins and the date the member's employment and
12 DROP participation will terminate.

13 4. Simultaneous employment of a participant by
14 additional Florida Retirement System employers subsequent to
15 the commencement of participation in the DROP shall be
16 permissible provided such employers acknowledge in writing a
17 DROP termination date no later than the participant's existing
18 termination date or the 60-month limitation period as provided
19 in subparagraph (b)1.

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

22 a. A change of employment must take place without a
23 break in service so that the member receives salary for each
24 month of continuous DROP participation. If a member receives
25 no salary during a month, DROP participation shall cease
26 unless the employer verifies a continuation of the employment
27 relationship for such participant pursuant to s.
28 121.021(39)(b).

29 b. Such participant and new employer shall notify the
30 division on forms required by the division as to the identity
31 of the new employer.

1 c. The new employer shall acknowledge, in writing, the
2 participant's DROP termination date, which may be extended but
3 not beyond the original 60-month or, with respect to members
4 who are instructional personnel employed by the Florida School
5 for the Deaf and the Blind and who have received authorization
6 by the Board of Trustees of the Florida School for the Deaf
7 and the Blind to participate in the DROP beyond 60 months, or
8 who are instructional personnel as defined in s.
9 1012.01(2)(a)-(d) or administrative personnel as defined in s.
10 1012.01(3) in grades K-12 and who have received authorization
11 by the district school superintendent to participate in the
12 DROP beyond 60 months, the 96-month period provided in
13 subparagraph (b)1., shall acknowledge liability for any
14 additional retirement contributions and interest required if
15 the participant fails to timely terminate employment, and
16 shall be subject to the adjustment required in
17 sub-subparagraph (c)5.d.

18 6. Effective July 1, 2001, for instructional personnel
19 as defined in s. 1012.01(2), election to participate in the
20 DROP shall be made at any time following the date on which the
21 member first reaches normal retirement date. The member shall
22 advise his or her employer and the division in writing of the
23 date on which the Deferred Retirement Option Program shall
24 begin. When establishing eligibility of the member to
25 participate in the DROP for the 60-month or, with respect to
26 members who are instructional personnel employed by the
27 Florida School for the Deaf and the Blind and who have
28 received authorization by the Board of Trustees of the Florida
29 School for the Deaf and the Blind to participate in the DROP
30 beyond 60 months, or who are instructional personnel as
31 defined in s. 1012.01(2)(a)-(d) or administrative personnel as

1 defined in s. 1012.01(3) in grades K-12 and who have received
2 authorization by the district school superintendent to
3 participate in the DROP beyond 60 months, the 96-month maximum
4 participation period, as provided in subparagraph (b)1., the
5 member may elect to include or exclude any optional service
6 credit purchased by the member from the total service used to
7 establish the normal retirement date. A member with dual
8 normal retirement dates shall be eligible to elect to
9 participate in either class.

10 (b) Participation in the DROP.--

11 1. An eligible member may elect to participate in the
12 DROP for a period not to exceed a maximum of 60 calendar
13 months or, with respect to members who are instructional
14 personnel employed by the Florida School for the Deaf and the
15 Blind and who have received authorization by the Board of
16 Trustees of the Florida School for the Deaf and the Blind to
17 participate in the DROP beyond 60 months, or who are
18 instructional personnel as defined in s. 1012.01(2)(a)-(d) or
19 administrative personnel as defined in s. 1012.01(3) in grades
20 K-12 and who have received authorization by the district
21 school superintendent to participate in the DROP beyond 60
22 calendar months, 96 calendar months immediately following the
23 date on which the member first reaches his or her normal
24 retirement date or the date to which he or she is eligible to
25 defer his or her election to participate as provided in
26 subparagraph (a)2. However, a member who has reached normal
27 retirement date prior to the effective date of the DROP shall
28 be eligible to participate in the DROP for a period of time
29 not to exceed 60 calendar months or, with respect to members
30 who are instructional personnel employed by the Florida School
31 for the Deaf and the Blind and who have received authorization

1 by the Board of Trustees of the Florida School for the Deaf
2 and the Blind to participate in the DROP beyond 60 months, or
3 who are instructional personnel as defined in s.
4 1012.01(2)(a)-(d) or administrative personnel as defined in s.
5 1012.01(3) in grades K-12 and who have received authorization
6 by the district school superintendent to participate in the
7 DROP beyond 60 calendar months, 96 calendar months immediately
8 following the effective date of the DROP, except a member of
9 the Special Risk Class who has reached normal retirement date
10 prior to the effective date of the DROP and whose total
11 accrued value exceeds 75 percent of average final compensation
12 as of his or her effective date of retirement shall be
13 eligible to participate in the DROP for no more than 36
14 calendar months immediately following the effective date of
15 the DROP.

16 2. Upon deciding to participate in the DROP, the
17 member shall submit, on forms required by the division:
18 a. A written election to participate in the DROP;
19 b. Selection of the DROP participation and termination
20 dates, which satisfy the limitations stated in paragraph (a)
21 and subparagraph 1. Such termination date shall be in a
22 binding letter of resignation with the employer, establishing
23 a deferred termination date. The member may change the
24 termination date within the limitations of subparagraph 1.,
25 but only with the written approval of his or her employer;
26 c. A properly completed DROP application for service
27 retirement as provided in this section; and
28 d. Any other information required by the division.
29 3. The DROP participant shall be a retiree under the
30 Florida Retirement System for all purposes, except for
31 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,

1 121.053, and 121.122. However, participation in the DROP does
2 not alter the participant's employment status and such
3 employee shall not be deemed retired from employment until his
4 or her deferred resignation is effective and termination
5 occurs as provided in s. 121.021(39).

6 4. Elected officers shall be eligible to participate
7 in the DROP subject to the following:

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

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

23 c. An elected officer who is dually employed and
24 elects to participate in DROP shall be required to satisfy the
25 definition of termination within the 60-month or, with respect
26 to members who are instructional personnel employed by the
27 Florida School for the Deaf and the Blind and who have
28 received authorization by the Board of Trustees of the Florida
29 School for the Deaf and the Blind to participate in the DROP
30 beyond 60 months, or who are instructional personnel as
31 defined in s. 1012.01(2)(a)-(d) or administrative personnel as

1 defined in s. 1012.01(3) in grades K-12 and who have received
2 authorization by the district school superintendent to
3 participate in the DROP beyond 60 months, the 96-month
4 limitation period as provided in subparagraph 1. for the
5 nonelected position and may continue employment as an elected
6 officer as provided in s. 121.053. The elected officer will be
7 enrolled as a renewed member in the Elected Officers' Class or
8 the Regular Class, as provided in ss. 121.053 and 121.22, on
9 the first day of the month after termination of employment in
10 the nonelected position and termination of DROP. Distribution
11 of the DROP benefits shall be made as provided in paragraph
12 (c).

13 Section 2. This act shall take effect upon becoming a
14 law.

15
16 *****

17 SENATE SUMMARY

18 Authorizes retired persons who were school administrative
19 personnel to be reemployed on the same terms as retired
20 administrative personnel may be reemployed. Authorizes
21 administrative personnel an additional 36 months of DROP
22 participation, in the same manner as instructional
23 personnel.
24
25
26
27
28
29
30
31