

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL: CS/SB 1474

INTRODUCER: Criminal Justice Committee and Senator Posey

SUBJECT: Reemployment After Retirement

DATE: April 19, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cannon	CJ	Fav/CS
2.	_____	_____	GO	_____
3.	_____	_____	WM	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates a restriction on the reemployment of law enforcement officers, correctional officers, and correctional probation officers who retire from an agency under the Florida Retirement System. If these officers seek employment at the agency from which they retired, they may be appointed, reappointed, employed, or reemployed only at the lowest rank and pay scale for a certified law enforcement officer, correctional officer, or correctional probation officer within that agency. The period of service at that rank and pay scale must be for a minimum period of three years after the date of retirement or termination. The bill makes inactive the certification of a law enforcement officer, correctional officer, or correctional probation officer who violates the reemployment restriction.

The bill does not otherwise limit the employment or appointment opportunities for the law enforcement officer, correctional officer, or correctional probation officer at any other employing agency. This bill does not change other limitations on employment after retirement.¹

The limitations in this bill do not apply to an officer who is elected as sheriff or appointed by the governor as sheriff or to other appointed office which has law enforcement, corrections, or correctional probation responsibilities.

This bill substantially amends section 943.1395, Florida Statutes.

¹ Information in the "Summary," "Present Situation," "Effect of Proposed Changes," and "Related Issues" sections of this analysis was drawn substantially from the House Governmental Operations analysis of CS/HB 323.

II. Present Situation:

Florida Retirement System Act

Chapter 121, F.S., is the Florida Retirement System Act and it governs the Florida Retirement System (FRS). The FRS is administered by the Secretary of the Department of Management Services through the Division of Retirement. (s. 121.025, F.S.)

Section 121.091, F.S., governs the payment of benefits under the FRS. This section requires a member of the FRS to terminate employment or begin participation in the Deferred Retirement Option Program in order to receive benefits. Termination occurs when a member ceases all employment relationships with FRS employers. (s. 121.021(39)(a), F.S.) Termination is void if a member becomes reemployed by any member of the FRS within the next calendar month.

Subsection (9) of s. 121.091, F.S., governs employment after retirement. This provision permits any person who is a retired member of the FRS to be employed by a non-FRS employer and receive retirement benefits. Yet, those persons who are retired members of the FRS and who are reemployed by an FRS employer may not receive both a salary from reemployment and retirement benefits in the period between two and 12 months after the date of retirement. After 12 months from the date of retirement, a person may receive both a salary from reemployment from the FRS employer and retirement benefits.

There currently are several provisions that allow a person who has retired to receive both a salary from reemployment with an FRS employer and retirement benefits in the period between two and 12 months after the date of retirement. These provisions limit the types of positions that the retired FRS member may accept, the number of hours the retired FRS member may work, or both. There currently are no restrictions on the types of positions or the number of hours that a retired FRS member may work with an FRS employer after twelve months.

Department of Law Enforcement Act

Chapter 943, F.S., is entitled the "Department of Law Enforcement Act," and includes various provisions relating to law enforcement within the State of Florida. Section 943.1395, F.S., provides conditions relating to the certification of law enforcement officers, correctional officers, and correctional probation officers for employment or appointment, and provides for inactive status and revocation of certification.

III. Effect of Proposed Changes:

This bill amends s. 943.1395, F.S., to create a restriction on the reemployment of law enforcement officers, correctional officers, and correctional probation officers who retire from an agency under ch. 121, F.S. If these officers seek employment at the agency from which they retired, they may only be appointed, reappointed, employed, or reemployed at the lowest rank and pay scale for a certified law enforcement officer, correctional officer, or correctional probation officer within that agency. The period of service at the lowest rank and pay scale must be for a minimum period of three years after the officer's effective date of retirement or termination in accordance with the requirements of the special risk normal retirement date. The

bill makes inactive the certification of a law enforcement officer, correctional officer, or correctional probation officer who violates the reemployment restriction.²

The bill does not otherwise limit the employment or appointment opportunities for the law enforcement officer, correctional officer, or correctional probation officer at any other employing agency. This bill also does not change the limitations on employment after retirement in s. 121.091(9), F.S.

The limitations in this bill do not apply to a law enforcement officer, correctional officer, or correctional probation officer who is elected as a sheriff or appointed by the governor to the office of sheriff or to another office having law enforcement, correction, or correctional probation officer duties.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill may effect the Florida Department of Law Enforcement if the department is required to change its certification monitoring process to comply with the provisions of this bill. The department may be able to absorb any additional costs within its existing budget.

² Law enforcement officers, correctional officers, or correctional probation officers must be certified for appointment to or employment in most positions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Only anecdotal data was available on the extent to which law enforcement officers, correctional officers, and correctional probation officers are reemployed in their previous positions after retiring.³ Anecdotal data also was the only source for the number of law enforcement/corrections agencies that have policies like that proposed by the bill.⁴ Some of this occurrence, however, has been attributed to employees participating in the Deferred Retirement Option Program,⁵ who must submit a binding letter of termination establishing a deferred termination date.⁶

The changes made by this bill are significantly different from most other limitations on reemployment with an FRS employer after retirement.⁷ The bill effects reemployment with only a single FRS employer and applies for three years, and the bill adversely impacts a professional certification.

FDLE has expressed some concern with this bill and how it might effect their department. For example, if a member of the department retires or leaves unexpectedly, a retired person who held that position previously would not be eligible to assume an interim appointment in that job. The hiring restrictions of this bill could cause the department to make hiring decisions based upon factors other than the qualifications of the applicant.

The Florida Sheriffs' Association has raised three concerns with this bill:

- (1) it conflicts with the independence of constitutional officers provided in s. 30.53, F.S.;
- (2) it creates a discriminatory policy towards three classes of employees;
- (3) it runs counter to recent legislative changes that encourage the reemployment of employees with specialized training experience.

³ According to the Department of Corrections, 36 retired correctional officers were rehired by the department within the last year. Of those retired officers, none was rehired in a position higher than an entry level position.

⁴ For example, the Florida Highway Patrol has such a practice. Telephone conversation with Colonel Christopher Knight, Florida Highway Patrol (Feb. 2, 2006). The Marion County Sheriff's Office also has a similar policy. Testimony before the Fla. House Gov't Ops. Comm. (Mar. 15, 2006) (recording on file with the Fla. House of Rep.).

⁵ Testimony before the Fla. House Gov't Ops. Comm. (Mar. 15, 2006) (recording on file with the Fla. House of Rep.).

⁶ s. 121.091(13)(b)2.b., F.S.; *see also* s. 121.091(13)(c)5.d., F.S. (reestablishing membership in the Florida Retirement System and requiring repayment plus interest for a participant who fails to terminate employment).

⁷ As previously discussed, most limitations allow a person who has retired to receive both a salary from reemployment with an FRS employer and retirement benefits in the period between two and 12 months after the date of retirement as long as the retired person works in designated positions and/or not more than a certain number of hours.

The Florida Police Benevolent Association is a proponent of the bill. It believes that the bill will serve to prevent an abuse of the state retirement system whereby employees retire and then return to work in their previously held positions. FPBA also believes that by insuring that employees permanently retire from higher level positions, the bill will remove impediments for other officers who seek promotion through the ranks.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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