

The Florida Senate
PROFESSIONAL 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: Governmental Operations Committee

BILL: CS/SB 1948

INTRODUCER: Governmental Operations Committee and Senator Posey

SUBJECT: Retirement/Reemployment

DATE: April 24, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wilson	Wilson	GO	Fav/CS
2.			CA	
3.			GA	
4.				
5.				
6.				

I. Summary:

The bill revises the reemployment after retirement restrictions of the Florida Retirement System to preclude reemployment by the same employer for twelve months beyond the suspension of benefits already in Florida law.

This bill substantially amends the following section of the Florida Statutes: 121.0919(9).

II. Present Situation:

The Florida Retirement System (FRS) is a multi-employer, defined benefit and defined contribution pension plan providing retirement income for officers and employees of its more than 900 state, county, municipal, educational, and special district employer-members. It was founded in 1970 as the successor to the Teachers' Retirement System and by 1972 it had incorporated three other pension plans: the State and County Officers and Employees' Retirement System, the Highway Patrol Pension Plan, and the Judicial Retirement System.

Incorporated within the benefit structure is a provision that limits reemployment after retirement for twelve months. That restriction itself does not preclude reemployment after a thirty-day period following retirement and termination of employment. It simply suspends the pension benefit earned and payable until the conclusion of the suspense period. The Legislature has individually carved out a number of exceptions to this suspense policy, as follows: elected officials, retired judges or justices; classroom teachers; community college and university faculty; and firefighters and paramedics. For several of these named professions an alternative procedure has been followed that permits them to work up to 780 hours per year without impairment of the retirement benefits.

III. Effect of Proposed Changes:

The bill prohibits the rehiring of a person who has retired from the employment of a member employer of the Florida Retirement System for one year. It does not prohibit the re-hiring of that same person by another agency.

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:

The bill would limit re-employment opportunities for persons seeking to return to FRS-covered employment with the same employer following retirement and termination. As is discussed, below, this nominal prohibition contains the seeds of its own demise.

C. Government Sector Impact:

In its original version, the bill would have a neutral financial result to the employer since the greater likelihood is that the returning employee will start at or near the same salary range in the same job. Replacement personnel would likely command a lower salary. This effect would be more heavily experienced in public safety organizations because of the rigid command structure and the post-chart nature of deployment in which employees move vertically. In civilian organizations where lateral entry is more common, the effect would be less pronounced as the nature of the work could be redefined to accommodate the available workforce.

With the adoption of the 780-hour amendment there will likely be a fiscal impact and, potentially, a need for at least an impact assessment from the Division of Retirement. It could also prompt the need for a special actuarial study. The reason for this effect is that the current law provides for the suspension of benefits for the first twelve months of

covered reemployment in the FRS. The revisions in the committee substitute permit up to 780 hours of reemployment during that first retirement year. The computation of the employer payroll costs to the FRS contemplates compliance with the suspension of benefit statute. Thus this change, while salutary to the employees who otherwise would be affected by the one-year ban on reemployment, will add to retirement plan costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

There are a number of practical considerations raised by this bill.

First, state employment is disproportionately concentrated in rural locales. Almost one-half of the state-influenced workforce, agencies as well as universities and community colleges, is located in Leon, Gadsden, Jackson, Alachua, Union, and Bradford Counties. In rural counties, the Department of Corrections and the district school board are the dominant employers and that government presence heavily influences the overall labor market. Restrictions on subsequent reemployment fall most heavily upon individuals who have chosen that location as their permanent residence prior to retirement. In urbanized areas or robust employment markets this effect will be less pronounced or non-existent.

Second, while there has been some commentary on the desire to prevent the gaming of reemployment by non rank-and-file employees, the bill operates across the board. It precludes management as well and line employees from the resumption of a career. Moreover, since the bar extends to the employer, and not the specific job, former employees from large organizations with multiple locations in rural areas would be affected relatively greater since the separate employment locations would still belong to the same employer. "Employer" is not defined in s. 121.021(10), F.S., as location-specific. Agencies with a greater concentration of contract vendors as direct service providers would be affected less.

Third, because the bill operates to bar reemployment it, strictly speaking, would not bar the reengagement of a person as an independent contractor. Independent contractors are not considered employees since they are not paid from salary appropriations and do not fill established positions. Materials published by the Division of Retirement instruct FRS employers how to properly recognize individuals reengaged in this manner.¹ This defeats the operation of the bill to some extent since the employer may reengage the retired employee after the mandatory thirty days, gross-up the former salary to include the cash equivalent of employee benefits, permit the employee to receive their DROP benefits, if applicable, and the full monthly retirement income, and redeem accrued vested leave. To the extent that former employees and employers find this subsequent arrangement to be satisfactory, the result may cause more, not fewer, employees to want to be reengaged. Thus, the bill could contain the seeds of its own demise by only hydraulically changing how reengagement occurs.

¹ Florida Retirement System, *Employer Handbook*, ch. 1, pp. 75-78 (July 2004).

Fourth, the nature of how employers are recognized in the FRS will cause a differential impact. Constitutional officers at the local government level are each treated as separate employers even though the offices themselves are replicated in each county. The state courts system, however, is considered a single employer, regardless of location. Likewise, the Legislature, with several different employing components, is considered a single employer.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
