

By the Committee on Governmental Operations; and Senator Posey

585-2681-07

1   A bill to be entitled  
2           An act relating to reemployment after  
3           retirement; amending s. 121.021, F.S.;  
4           redefining the term "termination"; providing  
5           that termination has not occurred if a member  
6           was employed in violation of certain rehire  
7           provisions; amending s. 121.091, F.S.; limiting  
8           terms of reemployment for certain members;  
9           providing certain exceptions; providing for  
10          joint and several liability for violation of  
11          reemployment provisions; amending s. 121.591,  
12          F.S.; providing that the violation of certain  
13          rehire provisions shall be deemed an invalid  
14          distribution; providing an effective date.

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

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

20           121.021 Definitions.--The following words and phrases  
21 as used in this chapter have the respective meanings set forth  
22 unless a different meaning is plainly required by the context:

23           (39)(a) "Termination" occurs, except as provided in  
24 paragraph (b), when a member ceases all employment  
25 relationships with employers under this system, as defined in  
26 subsection (10), but in the event a member should be employed  
27 by any such employer within the next calendar month, or in  
28 violation of the rehire provisions provided for in s.  
29 121.091(9)(b)1.b., termination shall be deemed not to have  
30 occurred. A leave of absence shall constitute a continuation  
31 of the employment relationship, except that a leave of absence

1 without pay due to disability may constitute termination for a  
2 member, if such member makes application for and is approved  
3 for disability retirement in accordance with s. 121.091(4).  
4 The department or board may require other evidence of  
5 termination as it deems necessary.

6 (b) "Termination" for a member electing to participate  
7 under the Deferred Retirement Option Program occurs when the  
8 Deferred Retirement Option Program participant ceases all  
9 employment relationships with employers under this system in  
10 accordance with s. 121.091(13), but in the event the Deferred  
11 Retirement Option Program participant should be employed by  
12 any such employer within the next calendar month, or in  
13 violation of the rehire provisions provided for in s.  
14 121.091(9)(b)1.b., termination will be deemed not to have  
15 occurred, except as provided in s. 121.091(13)(b)4.c. A leave  
16 of absence shall constitute a continuation of the employment  
17 relationship.

18 Section 2. Paragraph (b) of subsection (9) of section  
19 121.091, Florida Statutes, is amended to read:

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

3 |         (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

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

17 |         b. Except as provided for in subparagraphs 3., 4., 5.,  
18 | 6., and 11., and notwithstanding any other provisions in this  
19 | chapter to the contrary, a member may not be reemployed by the  
20 | same employing agency from which the member retired for more  
21 | than 780 hours for a period of 12 months immediately  
22 | subsequent to the date of retirement or, in the case of a DROP  
23 | participant, for a period of 12 months immediately subsequent  
24 | to the date the participant terminates employment in  
25 | accordance with subparagraph (13)(b)3. Any person who is  
26 | reemployed in violation of this sub-subparagraph shall void  
27 | his or her application for retirement benefits. Further, any  
28 | person who violates this sub-subparagraph and any employing  
29 | agency which knowingly employs or appoints such person in  
30 | violation of this sub-subparagraph shall be jointly and  
31 | severally liable for reimbursements to the retirement trust

1 fund of any retirement benefits improperly paid during this  
2 reemployment limitation period. This provision shall not  
3 otherwise limit the employment or appointment opportunities  
4 for a person at any other employing agency. The limitations  
5 provided for in this sub-subparagraph shall not be applicable  
6 when a retiree is elected to an office or appointed by the  
7 Governor to an office.

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

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

17           4. A community college board of trustees may reemploy  
18 a retired member as an adjunct instructor, that is, an  
19 instructor who is noncontractual and part-time, or as a  
20 participant in a phased retirement program within the Florida  
21 Community College System, after he or she has been retired for  
22 1 calendar month, in accordance with s. 121.021(39). Any  
23 retired member who is reemployed within 1 calendar month after  
24 retirement shall void his or her application for retirement  
25 benefits. Boards of trustees reemploying such instructors are  
26 subject to the retirement contribution required in  
27 subparagraph 7. A retired member may be reemployed as an  
28 adjunct instructor for no more than 780 hours during the first  
29 12 months of retirement. Any retired member reemployed for  
30 more than 780 hours during the first 12 months of retirement  
31 shall give timely notice in writing to the employer and to the

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

21 |         5. The State University System may reemploy a retired  
22 | member as an adjunct faculty member or as a participant in a  
23 | phased retirement program within the State University System  
24 | after the retired member has been retired for 1 calendar  
25 | month, in accordance with s. 121.021(39). Any retired member  
26 | who is reemployed within 1 calendar month after retirement  
27 | shall void his or her application for retirement benefits. The  
28 | State University System is subject to the retired contribution  
29 | required in subparagraph 7., as appropriate. A retired member  
30 | may be reemployed as an adjunct faculty member or a  
31 | participant in a phased retirement program for no more than

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

24         6. The Board of Trustees of the Florida School for the  
25 Deaf and the Blind may reemploy a retired member as a  
26 substitute teacher, substitute residential instructor, or  
27 substitute nurse on a noncontractual basis after he or she has  
28 been retired for 1 calendar month, in accordance with s.  
29 121.021(39). Any retired member who is reemployed within 1  
30 calendar month after retirement shall void his or her  
31 application for retirement benefits. The Board of Trustees of

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



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

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

30           9. Any person who is holding an elective public office  
31 which is covered by the Florida Retirement System and who is

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

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

18         11. An employing agency may reemploy a retired member  
19 as a firefighter or paramedic after the retired member has  
20 been retired for 1 calendar month, in accordance with s.  
21 121.021(39). Any retired member who is reemployed within 1  
22 calendar month after retirement shall void his or her  
23 application for retirement benefits. The employing agency  
24 reemploying such firefighter or paramedic is subject to the  
25 retired contribution required in subparagraph 8. Reemployment  
26 of a retired firefighter or paramedic is limited to no more  
27 than 780 hours during the first 12 months of his or her  
28 retirement. Any retired member reemployed for more than 780  
29 hours during the first 12 months of retirement shall give  
30 timely notice in writing to the employer and to the division  
31 of the date he or she will exceed the limitation. The division

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

19 Section 3. Paragraph (a) of subsection (1) of section  
20 121.591, Florida Statutes, is amended to read:

21 121.591 Benefits payable under the Public Employee  
22 Optional Retirement Program of the Florida Retirement  
23 System.--Benefits may not be paid under this section unless  
24 the member has terminated employment as provided in s.  
25 121.021(39)(a) or is deceased and a proper application has  
26 been filed in the manner prescribed by the state board or the  
27 department. The state board or department, as appropriate, may  
28 cancel an application for retirement benefits when the member  
29 or beneficiary fails to timely provide the information and  
30 documents required by this chapter and the rules of the state  
31 board and department. In accordance with their respective

1 | responsibilities as provided herein, the State Board of  
2 | Administration and the Department of Management Services shall  
3 | adopt rules establishing procedures for application for  
4 | retirement benefits and for the cancellation of such  
5 | application when the required information or documents are not  
6 | received. The State Board of Administration and the Department  
7 | of Management Services, as appropriate, are authorized to cash  
8 | out a de minimis account of a participant who has been  
9 | terminated from Florida Retirement System covered employment  
10 | for a minimum of 6 calendar months. A de minimis account is an  
11 | account containing employer contributions and accumulated  
12 | earnings of not more than \$5,000 made under the provisions of  
13 | this chapter. Such cash-out must either be a complete lump-sum  
14 | liquidation of the account balance, subject to the provisions  
15 | of the Internal Revenue Code, or a lump-sum direct rollover  
16 | distribution paid directly to the custodian of an eligible  
17 | retirement plan, as defined by the Internal Revenue Code, on  
18 | behalf of the participant. If any financial instrument issued  
19 | for the payment of retirement benefits under this section is  
20 | not presented for payment within 180 days after the last day  
21 | of the month in which it was originally issued, the  
22 | third-party administrator or other duly authorized agent of  
23 | the State Board of Administration shall cancel the instrument  
24 | and credit the amount of the instrument to the suspense  
25 | account of the Public Employee Optional Retirement Program  
26 | Trust Fund authorized under s. 121.4501(6). Any such amounts  
27 | transferred to the suspense account are payable upon a proper  
28 | application, not to include earnings thereon, as provided in  
29 | this section, within 10 years after the last day of the month  
30 | in which the instrument was originally issued, after which  
31 | time such amounts and any earnings thereon shall be forfeited.

1 Any such forfeited amounts are assets of the Public Employee  
2 Optional Retirement Program Trust Fund and are not subject to  
3 the provisions of chapter 717.

4 (1) NORMAL BENEFITS.--Under the Public Employee  
5 Optional Retirement Program:

6 (a) Benefits in the form of vested accumulations as  
7 described in s. 121.4501(6) shall be payable under this  
8 subsection in accordance with the following terms and  
9 conditions:

10 1. To the extent vested, benefits shall be payable  
11 only to a participant.

12 2. Benefits shall be paid by the third-party  
13 administrator or designated approved providers in accordance  
14 with the law, the contracts, and any applicable board rule or  
15 policy.

16 3. To receive benefits under this subsection, the  
17 participant must be terminated from all employment with all  
18 Florida Retirement System employers, as provided in s.  
19 121.021(39).

20 4. Benefit payments may not be made until the  
21 participant has been terminated for 3 calendar months, except  
22 that the board may authorize by rule for the distribution of  
23 up to 10 percent of the participant's account after being  
24 terminated for 1 calendar month if a participant has reached  
25 the normal retirement requirements of the defined benefit  
26 plan, as provided in s. 121.021(29).

27 5. If a member or former member of the Florida  
28 Retirement System receives an invalid distribution from the  
29 Public Employee Optional Retirement Program Trust Fund, such  
30 person shall repay the full invalid distribution to the trust  
31 fund within 90 days after receipt of final notification by the

1 State Board of Administration or the third-party administrator  
2 that the distribution was invalid. If such person fails to  
3 repay the full invalid distribution within 90 days after  
4 receipt of final notification, the person may be deemed  
5 retired from the Public Employee Optional Retirement Program  
6 by the state board, as provided pursuant to s. 121.4501(2)(j),  
7 and shall be subject to the provisions of s. 121.122. If such  
8 person is deemed retired by the state board, any joint and  
9 several liability set out in s. 121.091(9)(c)2. becomes null  
10 and void, and the state board, the Department of Management  
11 Services, or the employing agency is not liable for gains on  
12 payroll contributions that have not been deposited to the  
13 person's account in the Public Employee Optional Retirement  
14 Program, pending resolution of the invalid distribution. The  
15 member or former member who has been deemed retired or who has  
16 been determined by the board to have taken an invalid  
17 distribution may appeal the agency decision through the  
18 complaint process as provided under s. 121.4501(9)(f)3. As  
19 used in this subparagraph, the term "invalid distribution"  
20 means any distribution from an account in the Public Employee  
21 Optional Retirement Program which is taken in violation of the  
22 provisions of this section, s. 121.091(9), or s. 121.4501.  
23 Further, violation of the rehire provisions provided for in s.  
24 121.091(9)(b)1.b. shall be deemed an invalid distribution and  
25 the penalties provided for in this section shall apply.

26 Section 4. This act shall take effect July 1, 2007.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1948

The Committee Substitute permits reemployment during the first year after termination of employment and retirement for up to 780 hours.