

By Senators Fasano and Gaetz

11-00712-09

20091182__

1 A bill to be entitled
 2 An act relating to state retirement; amending s.
 3 121.091, F.S.; prohibiting a retired person from
 4 receiving both a salary from an employer in the state-
 5 administered retirement system and retirement
 6 benefits, and from reenrolling in the State Retirement
 7 System; providing exemptions; amending s. 121.122,
 8 F.S.; prohibiting a retired member from reenrolling in
 9 the State Retirement System after a certain date;
 10 providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Paragraph (b) of subsection (9) of section
 15 121.091, Florida Statutes, is amended to read:

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

29 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

11-00712-09

20091182__

30 (b)~~1~~. Any person who is retired under this chapter, except
31 under the disability retirement provisions of subsection (4),
32 may be reemployed by an employer participating in the Florida
33 Retirement System. However, except as provided under ss. 121.053
34 and 121.122, the any private or public employer after retirement
35 and receive retirement benefits and compensation from his or her
36 employer without any limitations, except that a person may not
37 receive both a salary from reemployment with any agency
38 participating in the Florida Retirement System and retirement
39 benefits, may not be reenrolled in the Florida Retirement
40 System, and the employer is not subject to retirement
41 contributions on behalf of such employee for that employment
42 under this chapter for a period of 12 months immediately
43 subsequent to the date of retirement. However, a DROP
44 participant may shall continue employment and receive a salary
45 during the period of participation in DROP ~~the Deferred~~
46 ~~Retirement Option Program~~, as provided in subsection (13).

47 2. Any person to whom the limitation in subparagraph 1.
48 applies who violates such reemployment limitation and who is
49 reemployed with any agency participating in the Florida
50 Retirement System before completion of the 12-month limitation
51 period shall give timely notice of this fact in writing to the
52 employer and to the division and shall have his or her
53 retirement benefits suspended for the balance of the 12-month
54 limitation period. Any person employed in violation of this
55 paragraph and any employing agency that ~~which~~ knowingly employs
56 or appoints such person without notifying the division ~~of~~
57 ~~Retirement~~ to suspend retirement benefits are ~~shall be~~ jointly
58 and severally liable for reimbursement to the retirement trust

11-00712-09

20091182__

59 ~~fund of~~ any benefits paid during the reemployment ~~limitation~~
60 ~~period~~. To avoid liability, the ~~such~~ employing agency must ~~shall~~
61 have a written statement from the retiree that he or she is not
62 retired from a state-administered retirement system. Any
63 retirement benefits received while reemployed must ~~during this~~
64 ~~reemployment limitation period~~ shall be repaid to the Florida
65 Retirement System Trust Fund, and the salary from employment
66 remains ~~retirement benefits shall remain~~ suspended until such
67 repayment has been made. Any salary suspended ~~Benefits suspended~~
68 ~~beyond the reemployment limitation~~ shall be applied ~~apply~~ toward
69 repayment of retirement benefits received in violation of this
70 paragraph ~~the reemployment limitation~~. This provision is subject
71 to the following limited exemptions.

72 1.3. A district school board may reemploy a retired member
73 as a substitute or hourly teacher, education paraprofessional,
74 transportation assistant, bus driver, or food service worker on
75 a part-time, noncontractual basis after he or she has been
76 retired for 1 calendar month, in accordance with s. 121.021(39).
77 A district school board may reemploy a retired member as
78 instructional personnel, as defined in s. 1012.01(2)(a), on an
79 annual contractual basis after he or she has been retired for 1
80 calendar month, in accordance with s. 121.021(39). Any other
81 retired member who is reemployed within 1 calendar month after
82 retirement shall void his or her application for retirement
83 benefits. ~~District school boards reemploying such teachers,~~
84 ~~education paraprofessionals, transportation assistants, bus~~
85 ~~drivers, or food service workers are subject to the retirement~~
86 ~~contribution required by subparagraph 7.~~

87 2.4. A community college board of trustees may reemploy a

11-00712-09

20091182__

88 retired member as an adjunct instructor, ~~that is, an instructor~~
89 who is noncontractual and part-time, or as a participant in a
90 phased retirement program within the Florida Community College
91 System, after he or she has been retired for 1 calendar month,
92 in accordance with s. 121.021(39). Any retired member who is
93 reemployed within 1 calendar month after retirement voids shall
94 ~~void~~ his or her application for retirement benefits. ~~Boards of~~
95 ~~trustees reemploying such instructors are subject to the~~
96 ~~retirement contribution required in subparagraph 7.~~ A retired
97 member may be reemployed as an adjunct instructor for no more
98 than 780 hours per year during the first 12 months of
99 ~~retirement.~~ Any retired member reemployed for more than 780
100 hours per year must during the first 12 months of retirement
101 ~~shall~~ give timely notice in writing to the employer and to the
102 Division of Retirement of the date he or she will exceed the
103 limitation. The division shall suspend his or her retirement
104 benefits for the remainder of the year first 12 months of
105 ~~retirement.~~ Any person employed in violation of this
106 subparagraph and any employing agency that ~~which~~ knowingly
107 employs or appoints such person without notifying the division
108 ~~of Retirement~~ to suspend retirement benefits are ~~shall be~~
109 jointly and severally liable for ~~reimbursement to the retirement~~
110 ~~trust fund of~~ any benefits paid during the reemployment
111 limitation period. To avoid liability, the ~~such~~ employing agency
112 must shall have a written statement from the retiree that he or
113 she is not retired from a state-administered retirement system.
114 Any retirement benefits received by a retired member while
115 reemployed in excess of 780 hours per year must during the first
116 ~~12 months of retirement shall~~ be repaid to the Florida

11-00712-09

20091182__

117 Retirement System Trust Fund, and any wages from employment
118 ~~retirement benefits shall~~ remain suspended until repayment is
119 made. Any wages suspended ~~Benefits suspended beyond the end of~~
120 ~~the retired member's first 12 months of retirement shall be~~
121 applied ~~apply~~ toward repayment of benefits received in violation
122 of the 780-hour reemployment limitation.

123 ~~3.5-~~ The State University System may reemploy a retired
124 member as an adjunct faculty member or as a participant in a
125 phased retirement program within the State University System
126 after the retired member has been retired for 1 calendar month,
127 in accordance with s. 121.021(39). Any retired member who is
128 reemployed within 1 calendar month after retirement voids ~~shall~~
129 ~~void~~ his or her application for retirement benefits. ~~The State~~
130 ~~University System is subject to the retired contribution~~
131 ~~required in subparagraph 7., as appropriate.~~ A retired member
132 may be reemployed as an adjunct faculty member or a participant
133 in a phased retirement program for no more than 780 hours per
134 year ~~during the first 12 months of his or her retirement.~~ Any
135 retired member reemployed for more than 780 hours per year must
136 ~~during the first 12 months of retirement shall~~ give timely
137 notice in writing to the employer and to the Division of of
138 Retirement of the date he or she will exceed the limitation. The
139 division shall suspend his or her retirement benefits for the
140 remainder of the year ~~first 12 months of retirement.~~ Any person
141 employed in violation of this subparagraph and any employing
142 agency that ~~which~~ knowingly employs or appoints such person
143 without notifying the division of ~~Retirement~~ to suspend
144 retirement benefits are ~~shall be~~ jointly and severally liable
145 for ~~reimbursement to the retirement trust fund of~~ any benefits

11-00712-09

20091182__

146 paid during the reemployment limitation period. To avoid
147 liability, such employing agency must ~~shall~~ have a written
148 statement from the retiree that he or she is not retired from a
149 state-administered retirement system. Any retirement benefits
150 received by a retired member while reemployed in excess of 780
151 hours per year must ~~during the first 12 months of retirement~~
152 ~~shall~~ be repaid to the Florida Retirement System Trust Fund, and
153 any wages from employment ~~retirement benefits shall~~ remain
154 suspended until repayment is made. Any wages ~~Benefits~~ suspended
155 ~~beyond the end of the retired member's first 12 months of~~
156 ~~retirement~~ shall be applied ~~apply~~ toward repayment of benefits
157 received in violation of the 780-hour reemployment limitation.

158 ~~4.6-~~ The Board of Trustees of the Florida School for the
159 Deaf and the Blind may reemploy a retired member as a substitute
160 teacher, substitute residential instructor, or substitute nurse
161 on a part-time noncontractual basis after he or she has been
162 retired for 1 calendar month, in accordance with s. 121.021(39).
163 Any retired member who is reemployed within 1 calendar month
164 after retirement voids ~~shall void~~ his or her application for
165 retirement benefits. ~~The Board of Trustees of the Florida School~~
166 ~~for the Deaf and the Blind reemploying such teachers,~~
167 ~~residential instructors, or nurses is subject to the retirement~~
168 ~~contribution required by subparagraph 7.~~ Reemployment of a
169 retired member as a substitute teacher, substitute residential
170 instructor, or substitute nurse is limited to 780 hours per year
171 ~~during the first 12 months of his or her retirement.~~ Any retired
172 member reemployed for more than 780 hours per year must ~~during~~
173 ~~the first 12 months of retirement shall~~ give timely notice in
174 writing to the employer and to the Division of Retirement of the

11-00712-09

20091182__

175 date he or she will exceed the limitation. The division shall
176 suspend his or her retirement benefits for the remainder of the
177 year ~~first 12 months of retirement~~. Any person employed in
178 violation of this subparagraph and any employing agency that
179 ~~which~~ knowingly employs or appoints such person without
180 notifying the division ~~of Retirement~~ to suspend retirement
181 benefits are ~~shall be~~ jointly and severally liable for
182 ~~reimbursement to the retirement trust fund of~~ any benefits paid
183 during the reemployment limitation period. To avoid liability,
184 such employing agency must ~~shall~~ have a written statement from
185 the retiree that he or she is not retired from a state-
186 administered retirement system. Any retirement benefits received
187 by a retired member while reemployed in excess of 780 hours per
188 year must ~~during the first 12 months of retirement shall be~~
189 repaid to the Retirement System Trust Fund, and any wages from
190 employment ~~his or her retirement benefits shall~~ remain suspended
191 until payment is made. Any wages ~~Benefits~~ suspended ~~beyond the~~
192 ~~end of the retired member's first 12 months of retirement shall~~
193 be applied ~~apply~~ toward repayment of benefits received in
194 violation of the 780-hour reemployment limitation.

195 5.7. The employment ~~by an employer~~ of a ~~any~~ retiree or DROP
196 participant of a ~~any~~ state-administered retirement system does
197 not affect ~~shall have no effect on~~ the average final
198 compensation or years of creditable service of the retiree or
199 DROP participant. Before ~~Prior to~~ July 1, 1991, upon employment
200 of any person, other than an elected officer as provided in s.
201 121.053, who is ~~has been~~ retired under a ~~any~~ state-administered
202 retirement program, the employer shall pay retirement
203 contributions in an amount equal to the unfunded actuarial

11-00712-09

20091182__

204 liability portion of the employer contribution which would be
205 required for regular members of the Florida Retirement System.
206 Effective July 1, 2009 ~~1991~~, contributions shall be made as
207 provided in s. 121.122 for elected officers ~~retirees~~ with
208 renewed membership or subsection (13) with respect to DROP
209 participants.

210 ~~8. Any person who has previously retired and who is holding~~
211 ~~an elective public office or an appointment to an elective~~
212 ~~public office eligible for the Elected Officers' Class on or~~
213 ~~after July 1, 1990, shall be enrolled in the Florida Retirement~~
214 ~~System as provided in s. 121.053(1)(b) or, if holding an~~
215 ~~elective public office that does not qualify for the Elected~~
216 ~~Officers' Class on or after July 1, 1991, shall be enrolled in~~
217 ~~the Florida Retirement System as provided in s. 121.122, and~~
218 ~~shall continue to receive retirement benefits as well as~~
219 ~~compensation for the elected officer's service for as long as he~~
220 ~~or she remains in elective office. However, any retired member~~
221 ~~who served in an elective office prior to July 1, 1990,~~
222 ~~suspended his or her retirement benefit, and had his or her~~
223 ~~Florida Retirement System membership reinstated shall, upon~~
224 ~~retirement from such office, have his or her retirement benefit~~
225 ~~recalculated to include the additional service and compensation~~
226 ~~earned.~~

227 ~~9. Any person who is holding an elective public office~~
228 ~~which is covered by the Florida Retirement System and who is~~
229 ~~concurrently employed in nonelected covered employment may elect~~
230 ~~to retire while continuing employment in the elective public~~
231 ~~office, provided that he or she shall be required to terminate~~
232 ~~his or her nonelected covered employment. Any person who~~

11-00712-09

20091182__

233 ~~exercises this election shall receive his or her retirement~~
234 ~~benefits in addition to the compensation of the elective office~~
235 ~~without regard to the time limitations otherwise provided in~~
236 ~~this subsection. No person who seeks to exercise the provisions~~
237 ~~of this subparagraph, as the same existed prior to May 3, 1984,~~
238 ~~shall be deemed to be retired under those provisions, unless~~
239 ~~such person is eligible to retire under the provisions of this~~
240 ~~subparagraph, as amended by chapter 84-11, Laws of Florida.~~

241 ~~10. The limitations of this paragraph apply to reemployment~~
242 ~~in any capacity with an "employer" as defined in s. 121.021(10),~~
243 ~~irrespective of the category of funds from which the person is~~
244 ~~compensated.~~

245 ~~6.11.~~ An employing agency may reemploy a retired member as
246 a firefighter or paramedic after the retired member has been
247 retired for 1 calendar month, in accordance with s. 121.021(39).
248 Any retired member who is reemployed within 1 calendar month
249 after retirement voids ~~shall void~~ his or her application for
250 retirement benefits. ~~The employing agency reemploying such~~
251 ~~firefighter or paramedic is subject to the retired contribution~~
252 ~~required in subparagraph 8.~~ Reemployment of a retired
253 firefighter or paramedic is limited to no more than 780 hours
254 per year ~~during the first 12 months of his or her retirement.~~
255 Any retired member reemployed for more than 780 hours per year
256 must ~~during the first 12 months of retirement~~ shall give timely
257 notice in writing to the employer and to the Division of
258 Retirement of the date he or she will exceed the limitation. The
259 division shall suspend his or her retirement benefits for the
260 remainder of the year ~~first 12 months of retirement.~~ Any person
261 employed in violation of this subparagraph and any employing

11-00712-09

20091182__

262 agency that ~~which~~ knowingly employs or appoints such person
263 without notifying the division ~~of Retirement~~ to suspend
264 retirement benefits shall be jointly and severally liable for
265 ~~reimbursement to the Retirement System Trust Fund of~~ any
266 benefits paid during the reemployment limitation period. To
267 avoid liability, such employing agency must ~~shall~~ have a written
268 statement from the retiree that he or she is not retired from a
269 state-administered retirement system. Any retirement benefits
270 received by a retired member while reemployed in excess of 780
271 hours per year must ~~during the first 12 months of retirement~~
272 ~~shall~~ be repaid to the Florida Retirement System Trust Fund, and
273 retirement benefits ~~shall~~ remain suspended until repayment is
274 made. Any wages suspended shall be applied ~~Benefits suspended~~
275 ~~beyond the end of the retired member's first 12 months of~~
276 ~~retirement shall apply~~ toward repayment of benefits received in
277 violation of the 780-hour reemployment limitation.

278 7. The limitations of this paragraph apply to reemployment
279 in any capacity with an employer, as defined in s. 121.021,
280 irrespective of the category of funds from which the person is
281 compensated.

282 Section 2. Section 121.122, Florida Statutes, is amended to
283 read:

284 121.122 Renewed membership in system.—Except as provided in
285 s. 121.053, effective July 1, 1991, through July 1, 2009, any
286 retiree of a state-administered retirement system who is
287 employed in a regularly established position with a covered
288 employer shall be enrolled as a compulsory member of the Regular
289 Class of the Florida Retirement System or, effective July 1,
290 1997, through July 1, 2009, any retiree of a state-administered

11-00712-09

20091182__

291 retirement system who is employed in a position included in the
292 Senior Management Service Class shall be enrolled as a
293 compulsory member of the Senior Management Service Class of the
294 Florida Retirement System as provided in s. 121.055, and is
295 ~~shall be~~ entitled to receive an additional retirement benefit,
296 subject to the following conditions:

297 (1) (a) Such member must ~~shall~~ resatisfy the age and service
298 requirements as provided in this chapter for initial membership
299 under the system, unless such member elects to participate in
300 the Senior Management Service Optional Annuity Program in lieu
301 of the Senior Management Service Class, as provided in s.
302 121.055(6).

303 (b) Such member is ~~shall~~ not ~~be~~ entitled to disability
304 benefits as provided in s. 121.091(4).

305 (c) Such member must meet the reemployment after retirement
306 limitations as provided in s. 121.091(9), as applicable.

307 (2) Upon renewed membership, the employer of such member
308 shall pay the applicable employer contributions as required by
309 ss. 121.055(3) and 121.071(1)(a) and (4).

310 (3) Such member is ~~shall be~~ entitled to purchase additional
311 retirement credit in the Regular Class or the Senior Management
312 Service Class, as applicable, for any postretirement service
313 performed in a regularly established position as follows:

314 (a) For regular class service prior to July 1, 1991, by
315 paying the Regular Class applicable employee and employer
316 contributions for the period being claimed, plus 4 percent
317 interest compounded annually from first year of service claimed
318 until July 1, 1975, and 6.5 percent interest compounded
319 thereafter, until full payment is made to the Florida Retirement

11-00712-09

20091182__

320 System Trust Fund; or

321 (b) For Senior Management Service Class prior to June 1,
322 1997, as provided in s. 121.055(1)(j).

323

324 The contribution for postretirement service between July 1,
325 1985, and July 1, 1991, for which the reemployed retiree
326 contribution was paid, is ~~shall be~~ the difference between such
327 contribution and the total applicable contribution for the
328 period being claimed, plus interest. The employer of such member
329 may pay the applicable employer contribution in lieu of the
330 member. If a member does not wish to claim credit for all of the
331 postretirement service for which he or she is eligible, the
332 service the member claims must be the most recent service.

333 (4) ~~No~~ Creditable service for which credit was received, or
334 which remained unclaimed, at retirement may not be claimed or
335 applied toward service credit earned following renewed
336 membership. However, service earned as an elected officer with
337 renewed membership in the Elected Officers' Class may be used in
338 conjunction with creditable service earned under this section,
339 provided the applicable vesting requirements and other existing
340 statutory conditions required by this chapter are met.

341 (5) Notwithstanding any other limitations provided in this
342 section, a participant of the State University System Optional
343 Retirement Program or the Senior Management Service Optional
344 Annuity Program who terminated employment and commenced
345 receiving an annuity under the provisions of the optional
346 program, who renews membership in the Regular Class as required
347 by this section upon reemployment after retirement, and who,
348 before July 1, 2009, had previously earned creditable Florida

11-00712-09

20091182__

349 Retirement System service that was not included in any
350 retirement benefit may include such previous service toward
351 vesting and service credit in the second career benefit provided
352 under renewed membership.

353 (6) Any renewed member who is not receiving the maximum
354 health insurance subsidy provided in s. 112.363 shall be
355 entitled to earn additional credit toward the maximum health
356 insurance subsidy. Any additional subsidy due because of such
357 additional credit shall be received only at the time of payment
358 of the second career retirement benefit. In no case shall the
359 total health insurance subsidy received by a retiree receiving
360 benefits from initial and renewed membership exceed the maximum
361 allowed in s. 112.363.

362 (7) Except for a retired member who renewed before July 1,
363 2009, on or after that date a retiree of the state-administered
364 retirement system may not be enrolled in the Florida Retirement
365 System.

366 Section 3. This act shall take effect July 1, 2009.