

By Senator Fasano

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1                                   A bill to be entitled  
 2           An act relating to state retirement; amending s.  
 3           121.053, F.S.; deleting a provision that allows a  
 4           retired member of the Elected Officers' Class to  
 5           receive retirement benefits while receiving  
 6           compensation for elected officer service; amending s.  
 7           121.091, F.S.; prohibiting an elected officer from  
 8           receiving both a salary from an employer in the state-  
 9           administered retirement system and retirement  
 10          benefits; 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 (1) and subsections  
 15           (2) and (3) of section 121.053, Florida Statutes, are amended to  
 16           read:

17           121.053 Participation in the Elected Officers' Class for  
 18           retired members.—

19           (1)

20           (b) Any retired member of the Florida Retirement System, or  
 21           any existing system as defined in s. 121.021(2), who, on or  
 22           after July 1, 1990, is serving in, or is elected or appointed  
 23           to, an elective office covered by the Elected Officers' Class  
 24           shall be enrolled in the appropriate subclass of the Elected  
 25           Officers' Class of the Florida Retirement System, and applicable  
 26           contributions shall be paid into the Florida Retirement System  
 27           Trust Fund as provided in s. 121.052(7). ~~Pursuant thereto:~~

28           ~~1. Any such retired member shall be eligible to continue to~~  
 29           ~~receive retirement benefits as well as compensation for the~~

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30 ~~elected officer service for as long as he or she remains in an~~  
31 ~~elective office covered by the Elected Officers' Class.~~

32 1.2. If any such member serves in an elective office  
33 covered by the Elected Officers' Class and becomes vested under  
34 that class, he or she is ~~shall be~~ entitled to receive an  
35 additional retirement benefit for such elected officer service.

36 2.3. Such member shall be entitled to purchase additional  
37 retirement credit in the Elected Officers' Class for any  
38 postretirement service performed in an elected position eligible  
39 for the Elected Officers' Class before ~~prior to~~ July 1, 1990, or  
40 in the Regular Class for any postretirement service performed in  
41 any other regularly established position before ~~prior to~~ July 1,  
42 1991, by paying the applicable Elected Officers' Class or  
43 Regular Class employee and employer contributions for the period  
44 being claimed, plus 4 percent interest compounded annually from  
45 the first year of service claimed until July 1, 1975, and 6.5  
46 percent interest compounded thereafter, until full payment is  
47 made to the Florida Retirement System Trust Fund. The  
48 contribution for postretirement Regular Class service between  
49 July 1, 1985, and July 1, 1991, for which the reemployed retiree  
50 contribution was paid, is ~~shall be~~ the difference between such  
51 contribution and the total applicable contribution for the  
52 period being claimed, plus interest. The employer of such member  
53 may pay the applicable employer contribution in lieu of the  
54 member. If a member does not wish to claim credit for all of the  
55 postretirement service for which he or she is eligible, the  
56 service the member claims must be the most recent service.

57 3.4. Creditable service for which credit was received, or  
58 which remained unclaimed, at retirement may not be claimed or

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59 applied toward service credit earned following renewed  
60 membership. However, service earned in accordance with the  
61 renewed membership provisions in s. 121.122 may be used in  
62 conjunction with creditable service earned under this paragraph,  
63 provided applicable vesting requirements and other existing  
64 statutory conditions ~~required by this chapter~~ are met.

65 ~~4.5.~~ An elected officer who is elected or appointed to an  
66 elective office and is participating in the Deferred Retirement  
67 Option Program is not subject to termination as provided in s.  
68 121.021(39)(b), or reemployment limitations as provided in s.  
69 121.091(9), until the end of his or her current term of office  
70 or, if the officer is consecutively elected or reelected to an  
71 elective office eligible for coverage under the Florida  
72 Retirement System, until he or she no longer holds such an  
73 elective office, as follows:

74 a. At the end of the 60-month DROP period:

75 (I) The officer's DROP account shall accrue no additional  
76 monthly benefits, but shall continue to earn interest as  
77 provided in s. 121.091(13).

78 (II) ~~No~~ Retirement contributions are not ~~shall be~~ required  
79 of the employer of the elected officer and ~~no~~ additional  
80 retirement credit may not ~~shall~~ be earned under the Florida  
81 Retirement System.

82 b. ~~The~~ Nothing herein shall prevent an elected officer may  
83 ~~from~~ voluntarily terminate ~~terminating~~ his or her elective  
84 office at any time and elect ~~electing~~ to receive his or her DROP  
85 proceeds. However, until termination, the ~~requirements are~~  
86 ~~fulfilled as provided in s. 121.021(39),~~ any elected officer  
87 whose termination limitations are extended by this section is

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88 ~~shall be~~ ineligible for renewed membership in the system and may  
89 not ~~shall~~ receive ~~no~~ pension payments, DROP lump sum payments,  
90 or any other state payment other than the statutorily determined  
91 salary, travel, and per diem for the elective office.

92 c. Upon termination, the officer shall receive his or her  
93 accumulated DROP account, plus interest, and shall accrue and  
94 commence receiving monthly retirement benefits, which shall be  
95 paid on a prospective basis only.

96  
97 However, an officer electing to participate in the Deferred  
98 Retirement Option Program on or before June 30, 2002, is ~~shall~~  
99 not ~~be~~ required to terminate and remains ~~shall remain~~ subject to  
100 the provisions of this subparagraph as adopted in section 1 of  
101 chapter 2001-235, Laws of Florida.

102 (2) Upon attaining his or her normal retirement date and  
103 payment of the amount specified in paragraphs (1)(a) and (b),  
104 and upon application to the administrator of the intent to  
105 retire, the member shall receive a monthly benefit under this  
106 section, ~~in addition to any benefits already being received,~~  
107 which shall commence on the last day of the month of retirement  
108 and be payable on the last day of the month thereafter during  
109 his or her lifetime. The amount of such monthly benefit is ~~shall~~  
110 ~~be~~ the total percentage of retirement credit purchased under  
111 this section multiplied by the member's average monthly  
112 compensation as an elected officer, adjusted according to the  
113 option selected at retirement under s. 121.091(6).

114 (3) Any renewed member, as described in subsection (1), who  
115 is not receiving the maximum health insurance subsidy provided  
116 in s. 112.363 is ~~shall be~~ entitled to earn additional credit

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117 toward the maximum health insurance subsidy. Any additional  
118 subsidy due because of such additional credit shall be received  
119 only at the time of payment of the ~~second-career~~ retirement  
120 benefit. ~~In no case shall~~ The total health insurance subsidy  
121 received by a retiree receiving benefits may not ~~from initial~~  
122 ~~and renewed membership~~ exceed the maximum allowed in s. 112.363.

123 Section 2. Paragraphs (a) and (b) of subsection (9) of  
124 section 121.091, Florida Statutes, are amended to read:

125 121.091 Benefits payable under the system.—Benefits may not  
126 be paid under this section unless the member has terminated  
127 employment as provided in s. 121.021(39) (a) or begun  
128 participation in the Deferred Retirement Option Program as  
129 provided in subsection (13), and a proper application has been  
130 filed in the manner prescribed by the department. The department  
131 may cancel an application for retirement benefits when the  
132 member or beneficiary fails to timely provide the information  
133 and documents required by this chapter and the department's  
134 rules. The department shall adopt rules establishing procedures  
135 for application for retirement benefits and for the cancellation  
136 of such application when the required information or documents  
137 are not received.

138 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

139 (a) Any person who is retired under this chapter, except  
140 under the disability retirement provisions of subsection (4),  
141 may be employed by an employer that does not participate in a  
142 state-administered retirement system and may receive  
143 compensation from that employment without limiting or  
144 restricting in any way the retirement benefits payable to that  
145 person under this chapter.

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146 (b)1. Any person who is retired under this chapter, except  
147 under the disability retirement provisions of subsection (4),  
148 may be reemployed by an employer participating in the Florida  
149 Retirement System ~~any private or public employer after~~  
150 ~~retirement~~ and receive retirement benefits and compensation from  
151 his or her employer without any limitations, except that the a  
152 person may not receive ~~both~~ a salary ~~from reemployment with any~~  
153 ~~agency participating in the Florida Retirement System~~ and  
154 retirement benefits ~~under this chapter~~ for a ~~period of~~ 12 months  
155 immediately after ~~subsequent to~~ the date of retirement. However,  
156 a DROP participant may ~~shall~~ continue employment and receive a  
157 salary during the period of participation in DROP ~~the Deferred~~  
158 ~~Retirement Option Program~~, as provided in subsection (13).

159 2. Any person to whom the limitation in subparagraph 1.  
160 applies who ~~violates such reemployment limitation and who~~ is  
161 reemployed with any agency participating in the Florida  
162 Retirement System after he or she has been retired for 1  
163 calendar month but before completion of the 12-month limitation  
164 period must ~~shall~~ give timely notice of this fact in writing to  
165 the employer and to the Division of Retirement and shall have  
166 his or her retirement benefits suspended while employed during  
167 ~~for~~ the balance of the 12-month limitation period. Any person  
168 employed in violation of this paragraph and any employing agency  
169 that ~~which~~ knowingly employs or appoints such person without  
170 notifying the division ~~of Retirement~~ to suspend retirement  
171 benefits are ~~shall be~~ jointly and severally liable for  
172 ~~reimbursement to the retirement trust fund of~~ any benefits paid  
173 during the reemployment limitation period. To avoid liability,  
174 the ~~such~~ employing agency must ~~shall~~ have a written statement

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175 from the retiree that he or she is not retired from a state-  
176 administered retirement system. Any retirement benefits received  
177 while reemployed during this reemployment limitation period must  
178 ~~shall~~ be repaid to the Florida Retirement System Trust Fund, and  
179 retirement benefits ~~shall~~ remain suspended until such repayment  
180 has been made. Benefits suspended beyond the reemployment  
181 limitation ~~shall~~ apply toward repayment of benefits received in  
182 violation of the reemployment limitation.

183 3. A district school board may reemploy a retired member as  
184 a substitute or hourly teacher, education paraprofessional,  
185 transportation assistant, bus driver, or food service worker on  
186 a noncontractual basis after he or she has been retired for 1  
187 calendar month, in accordance with s. 121.021(39). A district  
188 school board may reemploy a retired member as instructional  
189 personnel, as defined in s. 1012.01(2)(a), on an annual  
190 contractual basis after he or she has been retired for 1  
191 calendar month, in accordance with s. 121.021(39). Any other  
192 retired member who is reemployed within 1 calendar month after  
193 retirement voids ~~shall void~~ his or her application for  
194 retirement benefits. District school boards reemploying such  
195 teachers, education paraprofessionals, transportation  
196 assistants, bus drivers, or food service workers are subject to  
197 the retirement contribution required by subparagraph 9. 7.

198 4. A community college board of trustees may reemploy a  
199 retired member as an adjunct instructor, ~~that is, an instructor~~  
200 ~~who is noncontractual and part-time,~~ or as a participant in a  
201 phased retirement program within the Florida Community College  
202 System, after he or she has been retired for 1 calendar month,  
203 in accordance with s. 121.021(39). Any retired member who is

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204 reemployed within 1 calendar month after retirement voids ~~shall~~  
205 ~~void~~ his or her application for retirement benefits. Boards of  
206 trustees reemploying such instructors are subject to the  
207 retirement contribution required in subparagraph 7. A retired  
208 member may be reemployed as an adjunct instructor for no more  
209 than 780 hours during the first 12 months of retirement. Any  
210 retired member reemployed for more than 780 hours during the  
211 first 12 months of retirement must ~~shall~~ give timely notice in  
212 writing to the employer and to the Division of Retirement of the  
213 date he or she will exceed the limitation. The division shall  
214 suspend his or her retirement benefits for the remainder of the  
215 first 12 months of retirement. Any person employed in violation  
216 of this subparagraph and any employing agency that ~~which~~  
217 knowingly employs or appoints such person without notifying the  
218 division ~~of Retirement~~ to suspend retirement benefits are ~~shall~~  
219 ~~be~~ jointly and severally liable for ~~reimbursement to the~~  
220 ~~retirement trust fund of~~ any benefits paid during the  
221 reemployment limitation period. To avoid liability, the ~~such~~  
222 employing agency must ~~shall~~ have a written statement from the  
223 retiree that he or she is not retired from a state-administered  
224 retirement system. Any retirement benefits received by a retired  
225 member while reemployed in excess of 780 hours during the first  
226 12 months of retirement must ~~shall~~ be repaid to the Florida  
227 Retirement System Trust Fund, and retirement benefits ~~shall~~  
228 remain suspended until repayment is made. Benefits suspended  
229 beyond the end of the retired member's first 12 months of  
230 retirement shall apply toward repayment of benefits received in  
231 violation of the 780-hour reemployment limitation.

232 5. The State University System may reemploy a retired

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233 member as an adjunct faculty member or as a participant in a  
234 phased retirement program within the State University System  
235 after the retired member has been retired for 1 calendar month,  
236 in accordance with s. 121.021(39). A ~~Any~~ retired member who is  
237 reemployed within 1 calendar month after retirement voids ~~shall~~  
238 ~~void~~ his or her application for retirement benefits. The State  
239 University System is subject to the retired contribution  
240 required in subparagraph 9. ~~7.~~, as appropriate. A retired member  
241 may be reemployed as an adjunct faculty member or a participant  
242 in a phased retirement program for no more than 780 hours during  
243 the first 12 months of his or her retirement. Any retired member  
244 reemployed for more than 780 hours during the first 12 months of  
245 retirement must ~~shall~~ give timely notice in writing to the  
246 employer and to the Division of Retirement of the date he or she  
247 will exceed the limitation. The division shall suspend his or  
248 her retirement benefits for the remainder of the first 12 months  
249 of retirement. Any person employed in violation of this  
250 subparagraph and any employing agency that ~~which~~ knowingly  
251 employs or appoints such person without notifying the division  
252 ~~of Retirement~~ to suspend retirement benefits are ~~shall be~~  
253 jointly and severally liable for ~~reimbursement to the retirement~~  
254 ~~trust fund~~ of any benefits paid during the reemployment  
255 limitation period. To avoid liability, such employing agency  
256 must ~~shall~~ have a written statement from the retiree that he or  
257 she is not retired from a state-administered retirement system.  
258 Any retirement benefits received by a retired member while  
259 reemployed in excess of 780 hours during the first 12 months of  
260 retirement must ~~shall~~ be repaid to the Florida Retirement System  
261 Trust Fund, and retirement benefits ~~shall~~ remain suspended until

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262 repayment is made. Benefits suspended beyond the end of the  
263 retired member's first 12 months of retirement shall apply  
264 toward repayment of benefits received in violation of the 780-  
265 hour reemployment limitation.

266         6. The Board of Trustees of the Florida School for the Deaf  
267 and the Blind may reemploy a retired member as a substitute  
268 teacher, substitute residential instructor, or substitute nurse  
269 on a noncontractual basis after he or she has been retired for 1  
270 calendar month, in accordance with s. 121.021(39). Any retired  
271 member who is reemployed within 1 calendar month after  
272 retirement voids ~~shall void~~ his or her application for  
273 retirement benefits. The Board of Trustees of the Florida School  
274 for the Deaf and the Blind reemploying such teachers,  
275 residential instructors, or nurses is subject to the retirement  
276 contribution required by subparagraph 7. Reemployment of a  
277 retired member as a substitute teacher, substitute residential  
278 instructor, or substitute nurse is limited to 780 hours during  
279 the first 12 months of his or her retirement. Any retired member  
280 reemployed for more than 780 hours during the first 12 months of  
281 retirement shall give timely notice in writing to the employer  
282 and to the division of the date he or she will exceed the  
283 limitation. The division shall suspend his or her retirement  
284 benefits for the remainder of the first 12 months of retirement.  
285 Any person employed in violation of this subparagraph and any  
286 employing agency which knowingly employs or appoints such person  
287 without notifying the Division of Retirement to suspend  
288 retirement benefits shall be jointly and severally liable for  
289 reimbursement to the retirement trust fund of any benefits paid  
290 during the reemployment limitation period. To avoid liability,

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291 such employing agency shall have a written statement from the  
292 retiree that he or she is not retired from a state-administered  
293 retirement system. Any retirement benefits received by a retired  
294 member while reemployed in excess of 780 hours during the first  
295 12 months of retirement shall be repaid to the Retirement System  
296 Trust Fund, and his or her retirement benefits shall remain  
297 suspended until payment is made. Benefits suspended beyond the  
298 end of the retired member's first 12 months of retirement shall  
299 apply toward repayment of benefits received in violation of the  
300 780-hour reemployment limitation.

301 7. The employment ~~by an employer~~ of a any retiree or DROP  
302 participant of a any state-administered retirement system does  
303 not affect ~~shall have no effect on~~ the average final  
304 compensation or years of creditable service of the retiree or  
305 DROP participant. Before ~~Prior to~~ July 1, 1991, upon employment  
306 of any person, other than an elected officer as provided in s.  
307 121.053, who is ~~has been~~ retired under a any state-administered  
308 retirement program, the employer shall pay retirement  
309 contributions in an amount equal to the unfunded actuarial  
310 liability portion of the employer contribution which would be  
311 required for regular members of the Florida Retirement System.  
312 Effective July 1, 2009 ~~1991~~, contributions shall be made as  
313 provided in s. 121.122 for elected officers ~~retirees~~ with  
314 renewed membership or subsection (13) with respect to DROP  
315 participants.

316 8. Any person who has ~~previously~~ retired from a nonelective  
317 position and ~~who~~ is now holding an elective public office ~~or an~~  
318 ~~appointment to an elective public office~~ eligible for the  
319 Elected Officers' Class ~~on or after July 1, 1990,~~ or who has

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320 retired from a position eligible for the Elected Officers' Class  
321 and is now employed in a nonelective position or reappointed to  
322 an elective office, shall be enrolled in the Florida Retirement  
323 System as provided in s. 121.053(1)(b) or, if holding an  
324 elective public office that does not qualify for the Elected  
325 Officers' Class on or after July 1, 1991, shall be enrolled in  
326 the Florida Retirement System as provided in s. 121.122, ~~and~~  
327 ~~shall continue to receive retirement benefits as well as~~  
328 ~~compensation for the elected officer's service for as long as he~~  
329 ~~or she remains in elective office.~~ However, his or her  
330 retirement benefits shall be suspended while holding office,  
331 shall be recalculated ~~any retired member who served in an~~  
332 ~~elective office prior to July 1, 1990, suspended his or her~~  
333 ~~retirement benefit, and had his or her Florida Retirement System~~  
334 ~~membership reinstated shall, upon retirement from such office,~~  
335 ~~have his or her retirement benefit recalculated to include the~~  
336 ~~additional service and compensation earned,~~ and shall be  
337 reinstated upon retirement from such office. This restriction  
338 applies to successive terminations and resumptions of  
339 employment, regardless of retirement class.

340 ~~9. Any person who is holding an elective public office~~  
341 ~~which is covered by the Florida Retirement System and who is~~  
342 ~~concurrently employed in nonelected covered employment may elect~~  
343 ~~to retire while continuing employment in the elective public~~  
344 ~~office, provided that he or she shall be required to terminate~~  
345 ~~his or her nonelected covered employment. Any person who~~  
346 ~~exercises this election shall receive his or her retirement~~  
347 ~~benefits in addition to the compensation of the elective office~~  
348 ~~without regard to the time limitations otherwise provided in~~

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349 ~~this subsection. No person who seeks to exercise the provisions~~  
350 ~~of this subparagraph, as the same existed prior to May 3, 1984,~~  
351 ~~shall be deemed to be retired under those provisions, unless~~  
352 ~~such person is eligible to retire under the provisions of this~~  
353 ~~subparagraph, as amended by chapter 84-11, Laws of Florida.~~

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

358 9.11. An employing agency may reemploy a retired member as  
359 a firefighter or paramedic after the retired member has been  
360 retired for 1 calendar month, in accordance with s. 121.021(39).  
361 Any retired member who is reemployed within 1 calendar month  
362 after retirement voids ~~shall void~~ his or her application for  
363 retirement benefits. The employing agency reemploying such  
364 firefighter or paramedic is subject to the retired contribution  
365 required in subparagraph 7. ~~8.~~ Reemployment of a retired  
366 firefighter or paramedic is limited to no more than 780 hours  
367 during the first 12 months of his or her retirement. Any retired  
368 member reemployed for more than 780 hours during the first 12  
369 months of retirement must ~~shall~~ give timely notice in writing to  
370 the employer and to the Division of Retirement of the date he or  
371 she will exceed the limitation. The division shall suspend his  
372 or her retirement benefits for the remainder of the first 12  
373 months of retirement. Any person employed in violation of this  
374 subparagraph and any employing agency that ~~which~~ knowingly  
375 employs or appoints such person without notifying the division  
376 ~~of Retirement~~ to suspend retirement benefits shall be jointly  
377 and severally liable for ~~reimbursement to the Retirement System~~

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378 ~~Trust Fund~~ of any benefits paid during the reemployment  
379 limitation period. To avoid liability, such employing agency  
380 must ~~shall~~ have a written statement from the retiree that he or  
381 she is not retired from a state-administered retirement system.  
382 Any retirement benefits received by a retired member while  
383 reemployed in excess of 780 hours during the first 12 months of  
384 retirement must ~~shall~~ be repaid to the Florida Retirement System  
385 Trust Fund, and retirement benefits ~~shall~~ remain suspended until  
386 repayment is made. Benefits suspended beyond the end of the  
387 retired member's first 12 months of retirement shall apply  
388 toward repayment of benefits received in violation of the 780-  
389 hour reemployment limitation.

390 10. The limitations of this paragraph apply to reemployment  
391 in any capacity with an employer, as defined in s. 121.021,  
392 irrespective of the category of funds from which the person is  
393 compensated.

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