

By Senator Baker

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1 A bill to be entitled
 2 An act relating to disability retirement benefits;
 3 amending s. 121.091, F.S.; providing that certain
 4 members of the Special Risk Class who retired under
 5 the disability retirement provisions of the Florida
 6 Retirement System may be reemployed and continue to
 7 receive their disability retirement benefits;
 8 providing a declaration of important state interest;
 9 providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsection (9) of section 121.091, Florida
 14 Statutes, is amended to read:

15 121.091 Benefits payable under the system.—Benefits may not
 16 be paid under this section unless the member has terminated
 17 employment as provided in s. 121.021(39) (a) or begun
 18 participation in the Deferred Retirement Option Program as
 19 provided in subsection (13), and a proper application has been
 20 filed in the manner prescribed by the department. The department
 21 may cancel an application for retirement benefits when the
 22 member or beneficiary fails to timely provide the information
 23 and documents required by this chapter and the department's
 24 rules. The department shall adopt rules establishing procedures
 25 for application for retirement benefits and for the cancellation
 26 of such application when the required information or documents
 27 are not received.

28 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—Except as
 29 provided under the disability retirement provisions of

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30 subsection (4) as qualified by subparagraph (b)11. of this
31 subsection:

32 (a) Any person who is retired under this chapter, ~~except~~
33 ~~under the disability retirement provisions of subsection (4),~~
34 may be employed by an employer that does not participate in a
35 state-administered retirement system and may receive
36 compensation from that employment without limiting or
37 restricting in any way the retirement benefits payable to that
38 person under this chapter.

39 (b)1. Any person who is retired under this chapter, ~~except~~
40 ~~under the disability retirement provisions of subsection (4),~~
41 may be reemployed by an employer participating in the Florida
42 Retirement System ~~any private or public employer after~~
43 ~~retirement~~ and receive retirement benefits and compensation from
44 his or her employer without any limitations, except that the a
45 person may not receive ~~both a salary from reemployment with any~~
46 ~~agency participating in the Florida Retirement System and~~
47 retirement benefits ~~under this chapter for a period of 12 months~~
48 immediately after ~~subsequent to~~ the date of retirement. However,
49 a DROP participant may ~~shall~~ continue employment and receive a
50 salary during the period of participation in DROP ~~the Deferred~~
51 ~~Retirement Option Program~~, as provided in subsection (13).

52 2. Any person to whom the limitation in subparagraph 1.
53 applies who ~~violates such reemployment limitation and who is~~
54 reemployed with any agency participating in the Florida
55 Retirement System before completion of the 12-month limitation
56 period must ~~shall~~ give timely notice of this fact in writing to
57 the employer and to the Division of Retirement and shall have
58 his or her retirement benefits suspended while employed during

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59 ~~for~~ the balance of the 12-month limitation period. Any person
60 employed in violation of this paragraph and any employing agency
61 that ~~which~~ knowingly employs or appoints such person without
62 notifying the division ~~of Retirement~~ to suspend retirement
63 benefits are ~~shall be~~ jointly and severally liable for
64 ~~reimbursement to the retirement trust fund of~~ any benefits paid
65 during the reemployment limitation period. To avoid liability,
66 the ~~such~~ employing agency must ~~shall~~ have a written statement
67 from the retiree that he or she is not retired from a state-
68 administered retirement system. Any retirement benefits received
69 while reemployed during this reemployment limitation period must
70 ~~shall~~ be repaid to the Florida Retirement System Trust Fund, and
71 retirement benefits ~~shall~~ remain suspended until such repayment
72 has been made. Benefits suspended beyond the reemployment
73 limitation ~~shall~~ apply toward repayment of benefits received in
74 violation of the reemployment limitation.

75 3. A district school board may reemploy a retired member as
76 a substitute or hourly teacher, education paraprofessional,
77 transportation assistant, bus driver, or food service worker on
78 a noncontractual basis after he or she has been retired for 1
79 calendar month, in accordance with s. 121.021(39). A district
80 school board may reemploy a retired member as instructional
81 personnel, as defined in s. 1012.01(2)(a), on an annual
82 contractual basis after he or she has been retired for 1
83 calendar month, in accordance with s. 121.021(39). Any other
84 retired member who is reemployed within 1 calendar month after
85 retirement voids ~~shall void~~ his or her application for
86 retirement benefits. District school boards reemploying such
87 teachers, education paraprofessionals, transportation

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88 assistants, bus drivers, or food service workers are subject to
89 the retirement contribution required by subparagraph 9. ~~7.~~

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

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117 member while reemployed in excess of 780 hours during the first
118 12 months of retirement must ~~shall~~ be repaid to the Florida
119 Retirement System Trust Fund, and retirement benefits ~~shall~~
120 remain suspended until repayment is made. Benefits suspended
121 beyond the end of the retired member's first 12 months of
122 retirement shall apply toward repayment of benefits received in
123 violation of the 780-hour reemployment limitation.

124 5. The State University System may reemploy a retired
125 member as an adjunct faculty member or as a participant in a
126 phased retirement program within the State University System
127 after the retired member has been retired for 1 calendar month,
128 in accordance with s. 121.021(39). A ~~Any~~ retired member who is
129 reemployed within 1 calendar month after retirement voids ~~shall~~
130 ~~void~~ his or her application for retirement benefits. The State
131 University System is subject to the retired contribution
132 required in subparagraph 9. ~~7.~~, as appropriate. A retired member
133 may be reemployed as an adjunct faculty member or a participant
134 in a phased retirement program for no more than 780 hours during
135 the first 12 months of his or her retirement. Any retired member
136 reemployed for more than 780 hours during the first 12 months of
137 retirement must ~~shall~~ give timely notice in writing to the
138 employer and to the Division of Retirement of the date he or she
139 will exceed the limitation. The division shall suspend his or
140 her retirement benefits for the remainder of the first 12 months
141 of retirement. Any person employed in violation of this
142 subparagraph and any employing agency that ~~which~~ knowingly
143 employs or appoints such person without notifying the division
144 ~~of Retirement~~ to suspend retirement benefits are ~~shall be~~
145 jointly and severally liable for ~~reimbursement to the retirement~~

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

158 6. The Board of Trustees of the Florida School for the Deaf
159 and the Blind may reemploy a retired member as a substitute
160 teacher, substitute residential instructor, or substitute nurse
161 on a noncontractual basis after he or she has been retired for 1
162 calendar month, in accordance with s. 121.021(39). Any retired
163 member who is reemployed within 1 calendar month after
164 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 during
171 the first 12 months of his or her retirement. Any retired member
172 reemployed for more than 780 hours during the first 12 months of
173 retirement must ~~shall~~ give timely notice in writing to the
174 employer and to the Division of Retirement of the date he or she

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

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

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204 required for regular members of the Florida Retirement System.
205 Effective July 1, 1991, contributions shall be made as provided
206 in s. 121.122 for retirees with renewed membership or subsection
207 (13) with respect to DROP participants.

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

225 9. Any person who is holding an elective public office
226 which is covered by the Florida Retirement System and who is
227 concurrently employed in nonelected covered employment may elect
228 to retire while continuing employment in the elective public
229 office, if ~~provided that~~ he or she terminates ~~shall be required~~
230 ~~to terminate~~ his or her nonelected covered employment. Any
231 person who exercises this election shall receive his or her
232 retirement benefits in addition to the compensation of the

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233 elective office without regard to the time limitations otherwise
234 provided in this subsection. A ~~No~~ person who seeks to exercise
235 the provisions of this subparagraph, as they ~~the same~~ existed
236 before ~~prior to~~ May 3, 1984, may not ~~shall~~ be deemed to be
237 retired under those provisions, unless such person is eligible
238 to retire under the provisions of this subparagraph, as amended
239 by chapter 84-11, Laws of Florida.

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

244 10.11. Except as provided in subparagraph 11., an employing
245 agency may reemploy a retired member as a firefighter or
246 paramedic after the retired member has been retired for 1
247 calendar month, in accordance with s. 121.021(39). Any retired
248 member who is reemployed within 1 calendar month after
249 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 7. ~~8.~~ Reemployment of a retired
253 firefighter or paramedic is limited to no more than 780 hours
254 during the first 12 months of his or her retirement. Any retired
255 member reemployed for more than 780 hours during the first 12
256 months of retirement must ~~shall~~ give timely notice in writing to
257 the employer and to the Division of Retirement of the date he or
258 she will exceed the limitation. The division shall suspend his
259 or her retirement benefits for the remainder of the first 12
260 months of retirement. Any person employed in violation of this
261 subparagraph and any employing agency that ~~which~~ knowingly

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

277 11. An employing agency may reemploy a law enforcement
278 officer, firefighter, correctional officer, emergency medical
279 technician, paramedic, or community-based correctional probation
280 officer who has been retired for 1 calendar month in accordance
281 with s. 121.021(39) under the disability retirement provisions
282 of subparagraph (4) and such employee may receive compensation
283 from that employment without limiting or restricting in any way
284 the retirement benefits payable to that person under this
285 chapter. Such retired member may not be reemployed in the
286 position he or she held at the time of the disabling illness or
287 injury or in a position in the Special Risk Class. Any retired
288 member who is reemployed within 1 calendar month after
289 retirement voids his or her application for retirement benefits.
290 The employing agency reemploying such member is subject to the

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291 retirement contribution required in subparagraph 7.

292 12. The limitations of this paragraph apply to reemployment
293 in any capacity with an employer, as defined in s. 121.021,
294 irrespective of the category of funds from which the person is
295 compensated.

296 (c) The provisions of this subsection apply to retirees, as
297 defined in s. 121.4501(2)(j), of the Public Employee Optional
298 Retirement Program created in part II, subject to the following
299 conditions:

300 1. Such retirees may not be reemployed with an employer
301 participating in the Florida Retirement System as provided in
302 paragraph (b) until such person has been retired for 3 calendar
303 months, unless the participant has reached the normal retirement
304 requirements of the defined benefit plan as provided in s.
305 121.021(29).

306 2. Such retiree employed in violation of this subsection
307 and any employing agency that knowingly employs or appoints such
308 person is ~~shall be~~ jointly and severally liable for
309 reimbursement of any benefits paid to the retirement trust fund
310 from which the benefits were paid, including the Florida
311 Retirement System Trust Fund and the Public Employee Optional
312 Retirement Program Trust Fund, as appropriate. To avoid
313 liability, the ~~such~~ employing agency must have a written
314 statement from the retiree that he or she is not retired from a
315 state-administered retirement system.

316 Section 2. The Legislature finds that a proper state
317 purpose is served when firefighters, emergency medical
318 technicians, paramedics, law enforcement officers, correctional
319 officers, and correctional probation officers who are employees

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320 and retirees of the state and its political subdivisions, and
321 the dependents, survivors, and beneficiaries of such employees
322 and retirees, participate in a uniform retirement system. These
323 persons must be provided benefits that are fair and adequate and
324 that are funded in an actuarially sound manner as required by s.
325 14, Article X of the State Constitution and part VII of chapter
326 112, Florida Statutes. Therefore, the Legislature determines and
327 declares that this act fulfills an important state interest.

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