

1 A bill to be entitled
 2 An act relating to senior judges; amending s. 25.073,
 3 F.S.; revising the definitions of the terms "retired
 4 justice" and "retired judge" for purposes of assignment to
 5 temporary duty; conforming provisions to changes made by
 6 this act; providing for the chief judge of a judicial
 7 circuit, subject to approval by the Chief Justice of the
 8 Supreme Court, to establish a program for retired justices
 9 or judges to preside over civil cases and trials upon
 10 written request of one or more parties; providing for
 11 compensation of such justices or judges; providing for an
 12 additional court cost and for deposit thereof; providing
 13 an effective date.

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

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 17 Section 1. Subsections (1) and (3) of section 25.073,
 18 Florida Statutes, are amended, and subsection (4) is added to
 19 that section, to read:

20 25.073 Retired justices or judges assigned to temporary
 21 duty; additional compensation; appropriation.--

22 (1) For purposes of this section, the term "retired
 23 justice" or "retired judge" means any former justice or judge
 24 who is not engaged in the practice of law, who has not been
 25 disciplined by the Supreme Court, and either:

26 (a) Has failed to win reelection or be retained after more
 27 than 12 years of service as a justice or judge; or ~~not been~~
 28 ~~defeated in seeking reelection to, or has not failed to be~~

29 ~~retained in seeking retention in, his or her last judicial~~
30 ~~office or was not defeated when last seeking election to~~
31 ~~judicial office; and~~

32 (b) Has served at least one complete term as a justice or
33 judge and chose not to stand for retention or reelection at the
34 conclusion of his or her latest term ~~Is not engaged in the~~
35 ~~practice of law.~~

36 (3) Payments required under subsection (2) ~~this section~~
37 shall be made from moneys to be appropriated for this purpose.

38 (4) In addition to subsections (1)-(3), the chief judge of
39 a judicial circuit may, subject to approval by the Chief
40 Justice, establish a program for the optional use of retired
41 justices or judges to preside over civil cases and trials
42 pursuant to this subsection. The program shall be developed and
43 operated so as to ensure that one or more parties to the lawsuit
44 shall pay the cost of the retired justice or judge. The use of
45 this program shall in no way diminish or otherwise affect the
46 power and authority of the Chief Justice to assign justices or
47 judges, including consenting retired justices or judges, to
48 temporary duty in any court for which the justice or judge is
49 qualified or to delegate to a chief judge of a judicial circuit
50 the power to assign justices or judges for duty in that circuit.
51 At a minimum, the program developed under this subsection shall
52 be operated as follows:

53 (a)1. Any party to the action may request a retired
54 justice or judge to hear one or more motions. The request must
55 be in writing and addressed to the chief judge of the circuit.
56 The party may seek appointment of a retired justice or judge to

57 hear more than one motion in that case or motions in multiple
58 cases, or a lawyer or law firm may seek appointment of a retired
59 justice or judge to hear motions in multiple cases. The chief
60 judge of the circuit shall not appoint a retired justice or
61 judge if the trial judge assigned to the case can accommodate
62 the hearing or hearings within the following 2 weeks.

63 2. All parties to an action may jointly request a retired
64 justice or judge to conduct the trial of the action, including a
65 trial by special setting. The chief judge of the circuit shall
66 not appoint a retired justice or judge unless all parties agree
67 to the request and sufficient court resources are available to
68 accommodate the request.

69 (b)1. A party or parties seeking to use a retired justice
70 or judge shall submit a written request to the chief judge,
71 stating the reasons for the request.

72 2. Allowable grounds for use of a retired justice or judge
73 include the unavailability of hearing time, scheduling
74 difficulties, difficulties with the availability of witnesses,
75 or the need to expedite the case. A request shall not be granted
76 if it is apparent that a party is only seeking an appointment in
77 order to avoid the assigned trial judge.

78 3. The chief judge shall consider the reasons for the
79 request and shall grant or deny the request in writing within 5
80 days.

81 4. Only retired justices or judges who are on the list
82 that is approved by the Chief Justice are eligible for
83 appointment in this program. Assignment of such retired justices
84 or judges shall be made in accordance with current judge

85 assignment procedures in each judicial circuit. No party may
86 seek or request that a particular retired justice or judge be
87 appointed.

88 5. An appointment shall be for the hearing time requested.
89 However, the chief judge may appoint a retired justice or judge
90 to hear multiple hearings in 1 day involving related or
91 unrelated cases.

92 (c)1. Upon granting a request, the chief judge of the
93 applicable judicial circuit shall estimate the number of days
94 required of the retired justice or judge to complete the
95 hearings or trial and shall inform the requesting party or
96 parties of the cost.

97 2. The party or parties who requested the appointment of a
98 retired justice or judge shall prepay the per diem rate of the
99 retired justice or judge before the hearing or trial based on
100 the per diem rate then in effect. The minimum charge for
101 assignment of a retired justice or judge under this subsection
102 shall be the per diem rate for 1 day, and any required time over
103 1 day shall be charged in 1-day increments for any additional
104 days at the per diem rate. The chief judge shall set a payment
105 deadline sufficiently prior to the date of the hearing or trial
106 so that the appointment may be timely canceled if prepayment is
107 not received at least 1 business day before the scheduled
108 hearing or trial.

109 3. For purposes of this subsection, the term "per diem
110 rate" means the cost to the state of 1 day of service by a
111 retired justice or judge and shall be calculated by adding the
112 regular daily rate set by the Chief Justice for retired justices

113 or judges, plus the employer's share of required federal taxes,
114 plus, if applicable, the justice's or judge's travel and other
115 costs reimbursable under s. 112.061.

116 4. Payments made by a party or parties under this program
117 shall be deposited into the Operating Trust Fund within the
118 state courts system under s. 25.3844.

119 5. Once a hearing or trial is scheduled, prepayment is
120 made as required under this subsection, and the state is
121 required to make payment to the retired justice or judge, there
122 shall be no refund. A refund is only authorized if the assigned
123 retired justice or judge becomes unavailable for reasons
124 unrelated to the conduct of the parties.

125 6. A person who has been relieved of the requirement to
126 prepay costs in an action may not be relieved of the requirement
127 under this subsection to prepay the costs of a retired justice
128 or judge prior to a request being granted.

129 (d)1. If a party seeks appointment of a retired justice or
130 judge to hear one or more motions, the cost of the retired
131 justice or judge shall not be taxable against a nonprevailing
132 party.

133 2. If all parties sought the appointment of a retired
134 justice or judge to hear motions or conduct the trial, the
135 amounts paid for the retired justice or judge by a prevailing
136 party shall be taxable against a nonprevailing party, as
137 provided in chapter 57 and in the Florida Rules of Civil
138 Procedure.

139 Section 2. This act shall take effect upon becoming a law.