

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

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

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 15 Section 1. Subsection (3) of section 25.073, Florida
 16 Statutes, is amended, and subsection (4) is added to that
 17 section, to read:

18 25.073 Retired justices or judges assigned to temporary
 19 duty; additional compensation; appropriation.--

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

22 (4) In addition to subsections (1)-(3), the chief judge of
 23 a judicial circuit may, subject to approval by the Chief
 24 Justice, establish a program for the optional use of retired
 25 justices or judges to preside over civil cases and trials
 26 pursuant to this subsection. The program shall be developed and
 27 operated so as to ensure that one or more parties to the lawsuit
 28 shall pay the cost of the retired justice or judge. The use of

29 this program shall in no way diminish or otherwise affect the
30 power and authority of the Chief Justice to assign justices or
31 judges, including consenting retired justices or judges, to
32 temporary duty in any court for which the justice or judge is
33 qualified or to delegate to a chief judge of a judicial circuit
34 the power to assign justices or judges for duty in that circuit.
35 At a minimum, the program developed under this subsection shall
36 be operated as follows:

37 (a)1. Any party to the action may request a retired
38 justice or judge to hear one or more motions. The request must
39 be in writing and addressed to the chief judge of the circuit.
40 The party may seek appointment of a retired justice or judge to
41 hear more than one motion in that case or motions in multiple
42 cases, or a lawyer or law firm may seek appointment of a retired
43 justice or judge to hear motions in multiple cases. The chief
44 judge of the circuit shall not appoint a retired justice or
45 judge if the trial judge assigned to the case can accommodate
46 the hearing or hearings within the following 2 weeks.

47 2. All parties to an action may jointly request a retired
48 justice or judge to conduct the trial of the action, including a
49 trial by special setting. The chief judge of the circuit shall
50 not appoint a retired justice or judge unless all parties agree
51 to the request and sufficient court resources are available to
52 accommodate the request.

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

56 2. Allowable grounds for use of a retired justice or judge

57 include the unavailability of hearing time, scheduling
58 difficulties, difficulties with the availability of witnesses,
59 or the need to expedite the case. A request shall not be granted
60 if it is apparent that a party is only seeking an appointment in
61 order to avoid the assigned trial judge.

62 3. The chief judge shall consider the reasons for the
63 request and shall grant or deny the request in writing within 5
64 days.

65 4. Only retired justices or judges who are on the list
66 that is approved by the Chief Justice are eligible for
67 appointment in this program. Assignment of such retired justices
68 or judges shall be made in accordance with current judge
69 assignment procedures in each judicial circuit. No party may
70 seek or request that a particular retired justice or judge be
71 appointed.

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

76 (c)1. Upon granting a request, the chief judge of the
77 applicable judicial circuit shall estimate the number of days
78 required of the retired justice or judge to complete the
79 hearings or trial and shall inform the requesting party or
80 parties of the cost.

81 2. The party or parties who requested the appointment of a
82 retired justice or judge shall prepay the per diem rate of the
83 retired justice or judge before the hearing or trial based on
84 the per diem rate then in effect. The minimum charge for

85 assignment of a retired justice or judge under this subsection
86 shall be the per diem rate for 1 day, and any required time over
87 1 day shall be charged in 1-day increments for any additional
88 days at the per diem rate. The chief judge shall set a payment
89 deadline sufficiently prior to the date of the hearing or trial
90 so that the appointment may be timely canceled if prepayment is
91 not received at least 1 business day before the scheduled
92 hearing or trial.

93 3. For purposes of this subsection, the term "per diem
94 rate" means the cost to the state of 1 day of service by a
95 retired justice or judge and shall be calculated by adding the
96 regular daily rate set by the Chief Justice for retired justices
97 or judges, plus the employer's share of required federal taxes,
98 plus, if applicable, the justice's or judge's travel and other
99 costs reimbursable under s. 112.061.

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

103 5. Once a hearing or trial is scheduled, prepayment is
104 made as required under this subsection, and the state is
105 required to make payment to the retired justice or judge, there
106 shall be no refund. A refund is only authorized if the assigned
107 retired justice or judge becomes unavailable for reasons
108 unrelated to the conduct of the parties.

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

113 (d)1. If a party seeks appointment of a retired justice or
114 judge to hear one or more motions, the cost of the retired
115 justice or judge shall not be taxable against a nonprevailing
116 party.

117 2. If all parties sought the appointment of a retired
118 justice or judge to hear motions or conduct the trial, the
119 amounts paid for the retired justice or judge by a prevailing
120 party shall be taxable against a nonprevailing party, as
121 provided in chapter 57 and in the Florida Rules of Civil
122 Procedure.

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