

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 or to hear
 8 motions upon written request of one or more parties;
 9 providing that a party in default shall be deemed to have
 10 consented to the appointment of a retired justice or
 11 judge; providing for compensation of such justices or
 12 judges; providing for an additional court cost and for
 13 deposit thereof; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:
 16

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

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

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

24 (4) In addition to subsections (1)-(3), the chief judge of
 25 a judicial circuit may, subject to approval by the Chief
 26 Justice, establish a program for the optional use of retired
 27 justices or judges to preside over civil cases and trials
 28 pursuant to this subsection. The program shall be developed and

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

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

48 2. All parties to an action may jointly request a retired
49 justice or judge to hear one or more dispositive motions or to
50 conduct the trial of the action, including a trial by special
51 setting. The chief judge of the circuit shall not appoint a
52 retired justice or judge unless all parties agree to the request
53 and sufficient court resources are available to accommodate the
54 request. A party in default shall be deemed to have consented to
55 the appointment of a retired justice or judge under this
56 subparagraph.

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

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

66 3. The chief judge shall consider the reasons for the
67 request and shall grant or deny the request in writing within 5
68 days.

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

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

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

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

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

104 4. The per diem paid to a retired justice or judge under
105 this subsection for 1 day of service for all trials or hearings
106 conducted on that one day shall not exceed the standard per diem
107 rate for 1 day of service established by the chief justice.

108 5. Payments made by a party or parties under this program
109 shall be deposited into the Operating Trust Fund within the
110 state courts system under s. 25.3844.

111 6. Once a hearing or trial is scheduled, prepayment is
112 made as required under this subsection, and the state is

CS/HB 13

2010

113 required to make payment to the retired justice or judge, there
114 shall be no refund. A refund is only authorized if the assigned
115 retired justice or judge becomes unavailable for reasons
116 unrelated to the conduct of the parties.

117 7. A person who has been relieved of the requirement to
118 prepay costs in an action may not be relieved of the requirement
119 under this subsection to prepay the costs of a retired justice
120 or judge prior to a request being granted.

121 (d)1. If a party seeks appointment of a retired justice or
122 judge to hear one or more motions, the cost of the retired
123 justice or judge shall not be taxable against a nonprevailing
124 party.

125 2. If all parties sought the appointment of a retired
126 justice or judge to hear motions or conduct the trial, the
127 amounts paid for the retired justice or judge by a prevailing
128 party shall be taxable against a nonprevailing party, as
129 provided in chapter 57 and in the Florida Rules of Civil
130 Procedure.

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