

1                   A bill to be entitled  
 2           An act relating to judicial proceedings in civil cases;  
 3           amending s. 25.073, F.S.; conforming provisions to changes  
 4           made by the act; providing for the chief judge of a  
 5           judicial circuit, subject to approval by the Chief Justice  
 6           of the Supreme Court, to establish a program for retired  
 7           justices or judges to preside over civil cases and trials  
 8           upon written request of one or more parties; providing for  
 9           compensation of such justices or judges; providing for an  
 10          additional court cost and for deposit thereof; amending s.  
 11          44.104, F.S.; providing for the procedures governing  
 12          voluntary trial resolution to include a jury trial if  
 13          there is a right to a jury trial and at least one party  
 14          has requested a jury trial; providing for costs and  
 15          deposit thereof; providing an effective date.

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

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

22           25.073 Retired justices or judges assigned to temporary  
 23           duty; additional compensation; appropriation.—

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

26           (4) In addition to subsections (1)-(3), the chief judge of  
 27           a judicial circuit may, subject to approval by the Chief  
 28           Justice, establish a program for the optional use of retired

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

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

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

57 the appointment of a retired justice or judge under this  
58 subparagraph.

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

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

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

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

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

82 (c)1. Upon granting a request, the chief judge of the  
83 applicable judicial circuit shall estimate the number of days  
84 required of the retired justice or judge to complete the

85 hearings or trial and shall inform the requesting party or  
86 parties of the cost.

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

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

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

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

113 6. Once a hearing or trial is scheduled, prepayment is  
114 made as required under this subsection, and the state is  
115 required to make payment to the retired justice or judge, there  
116 shall be no refund. A refund is only authorized if the assigned  
117 retired justice or judge becomes unavailable for reasons  
118 unrelated to the conduct of the parties.

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

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

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

133 Section 2. Present subsections (3) through (14) of section  
134 44.104, Florida Statutes, are renumbered as subsections (4)  
135 through (15), respectively, and a new subsection (3) is added to  
136 that section to read:

137 44.104 Voluntary binding arbitration and voluntary trial  
138 resolution.—

139 (3) Voluntary trial resolution may include a jury trial if  
140 there is a right to a jury trial in the civil dispute and if

CS/CS/HB 13

2010

141 there has been a request for a jury trial by at least one party.  
142 The trial resolution judge shall preside over the jury trial.  
143 The jury trial conducted as part of the voluntary trial  
144 resolution shall be conducted according to the laws applicable  
145 to civil jury trials and in accordance with this section. The  
146 availability of a jury trial under this subsection requires the  
147 advance written approval of the chief judge of the circuit in  
148 which such case is pending and the availability of sufficient  
149 court resources to accommodate the request. A standard per diem  
150 rate may be established by the chief judge for the use of court  
151 resources to be charged to the parties conducting a trial under  
152 this subsection. Payments made by a party or parties under this  
153 subsection shall be deposited into the Operating Trust Fund  
154 within the state courts system under s. 25.3844.

155 Section 3. This act shall take effect upon becoming a law.