

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:

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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 paragraph (e) of this subsection:

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

37 (b) Any person whose retirement is effective before July 1,
38 2010, or whose participation in the Deferred Retirement Option
39 Program terminates before July 1, 2010, ~~except under the~~
40 ~~disability retirement provisions of subsection (4) or as~~
41 provided in s. 121.053, may be reemployed by an employer that
42 participates in a state-administered retirement system and
43 receive retirement benefits and compensation from that employer,
44 except that the person may not be reemployed by an employer
45 participating in the Florida Retirement System before meeting
46 the definition of termination in s. 121.021 and may not receive
47 both a salary from the employer and retirement benefits for 12
48 calendar months immediately subsequent to the date of
49 retirement. However, a DROP participant shall continue
50 employment and receive a salary during the period of
51 participation in the Deferred Retirement Option Program, as
52 provided in subsection (13).

53 1. A retiree who violates such reemployment limitation
54 before completion of the 12-month limitation period must give
55 timely notice of this fact in writing to the employer and to the
56 Division of Retirement or the state board and ~~shall~~ have his or
57 her retirement benefits suspended for the months employed or the
58 balance of the 12-month limitation period as required in sub-

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59 subparagraphs b. and c. A retiree employed in violation of this
60 paragraph and an employer who employs or appoints such person
61 are jointly and severally liable for reimbursement to the
62 retirement trust fund, including the Florida Retirement System
63 Trust Fund and the Public Employee Optional Retirement Program
64 Trust Fund, from which the benefits were paid. The employer must
65 have a written statement from the retiree that he or she is not
66 retired from a state-administered retirement system. Retirement
67 benefits shall remain suspended until repayment has been made.
68 Benefits suspended beyond the reemployment limitation shall
69 apply toward repayment of benefits received in violation of the
70 reemployment limitation.

71 a. A district school board may reemploy a retiree as a
72 substitute or hourly teacher, education paraprofessional,
73 transportation assistant, bus driver, or food service worker on
74 a noncontractual basis after he or she has been retired for 1
75 calendar month. A district school board may reemploy a retiree
76 as instructional personnel, as defined in s. 1012.01(2)(a), on
77 an annual contractual basis after he or she has been retired for
78 1 calendar month. Any member who is reemployed within 1 calendar
79 month after retirement shall void his or her application for
80 retirement benefits. District school boards reemploying such
81 teachers, education paraprofessionals, transportation
82 assistants, bus drivers, or food service workers are subject to
83 the retirement contribution required by subparagraph 2.

84 b. A community college board of trustees may reemploy a
85 retiree as an adjunct instructor or as a participant in a phased
86 retirement program within the Florida Community College System,
87 after he or she has been retired for 1 calendar month. A member

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88 who is reemployed within 1 calendar month after retirement shall
89 void his or her application for retirement benefits. Boards of
90 trustees reemploying such instructors are subject to the
91 retirement contribution required in subparagraph 2. A retiree
92 may be reemployed as an adjunct instructor for no more than 780
93 hours during the first 12 months of retirement. A retiree
94 reemployed for more than 780 hours during the first 12 months of
95 retirement must give timely notice in writing to the employer
96 and to the Division of Retirement or the state board of the date
97 he or she will exceed the limitation. The division shall suspend
98 his or her retirement benefits for the remainder of the 12
99 months of retirement. Any retiree employed in violation of this
100 sub-subparagraph and any employer who employs or appoints such
101 person without notifying the division to suspend retirement
102 benefits are jointly and severally liable for any benefits paid
103 during the reemployment limitation period. The employer must
104 have a written statement from the retiree that he or she is not
105 retired from a state-administered retirement system. Any
106 retirement benefits received by the retiree while reemployed in
107 excess of 780 hours during the first 12 months of retirement
108 must be repaid to the Florida Retirement System Trust Fund, and
109 retirement benefits shall remain suspended until repayment is
110 made. Benefits suspended beyond the end of the retiree's first
111 12 months of retirement shall apply toward repayment of benefits
112 received in violation of the 780-hour reemployment limitation.

113 c. The State University System may reemploy a retiree as an
114 adjunct faculty member or as a participant in a phased
115 retirement program within the State University System after the
116 retiree has been retired for 1 calendar month. A member who is

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117 reemployed within 1 calendar month after retirement shall void
118 his or her application for retirement benefits. The State
119 University System is subject to the retired contribution
120 required in subparagraph 2., as appropriate. A retiree may be
121 reemployed as an adjunct faculty member or a participant in a
122 phased retirement program for no more than 780 hours during the
123 first 12 months of his or her retirement. A retiree reemployed
124 for more than 780 hours during the first 12 months of retirement
125 must give timely notice in writing to the employer and to the
126 Division of Retirement or the state board of the date he or she
127 will exceed the limitation. The division shall suspend his or
128 her retirement benefits for the remainder of the 12 months. Any
129 retiree employed in violation of this sub-subparagraph and any
130 employer who employs or appoints such person without notifying
131 the division to suspend retirement benefits are jointly and
132 severally liable for any benefits paid during the reemployment
133 limitation period. The employer must have a written statement
134 from the retiree that he or she is not retired from a state-
135 administered retirement system. Any retirement benefits received
136 by the retiree while reemployed in excess of 780 hours during
137 the first 12 months of retirement must be repaid to the Florida
138 Retirement System Trust Fund, and retirement benefits shall
139 remain suspended until repayment is made. Benefits suspended
140 beyond the end of the retiree's first 12 months of retirement
141 shall apply toward repayment of benefits received in violation
142 of the 780-hour reemployment limitation.

143 d. The Board of Trustees of the Florida School for the Deaf
144 and the Blind may reemploy a retiree as a substitute teacher,
145 substitute residential instructor, or substitute nurse on a

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146 noncontractual basis after he or she has been retired for 1
147 calendar month. Any member who is reemployed within 1 calendar
148 month after retirement shall void his or her application for
149 retirement benefits. The Board of Trustees of the Florida School
150 for the Deaf and the Blind reemploying such teachers,
151 residential instructors, or nurses is subject to the retirement
152 contribution required by subparagraph 2.

153 e. A developmental research school may reemploy a retiree
154 as a substitute or hourly teacher or an education
155 paraprofessional as defined in s. 1012.01(2) on a noncontractual
156 basis after he or she has been retired for 1 calendar month. A
157 developmental research school may reemploy a retiree as
158 instructional personnel, as defined in s. 1012.01(2)(a), on an
159 annual contractual basis after he or she has been retired for 1
160 calendar month after retirement. Any member who is reemployed
161 within 1 calendar month voids his or her application for
162 retirement benefits. A developmental research school that
163 reemploys retired teachers and education paraprofessionals is
164 subject to the retirement contribution required by subparagraph
165 2.

166 f. A charter school may reemploy a retiree as a substitute
167 or hourly teacher on a noncontractual basis after he or she has
168 been retired for 1 calendar month. A charter school may reemploy
169 a retired member as instructional personnel, as defined in s.
170 1012.01(2)(a), on an annual contractual basis after he or she
171 has been retired for 1 calendar month after retirement. Any
172 member who is reemployed within 1 calendar month voids his or
173 her application for retirement benefits. A charter school that
174 reemploys such teachers is subject to the retirement

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175 contribution required by subparagraph 2.

176 2. The employment of a retiree or DROP participant of a
177 state-administered retirement system does not affect the average
178 final compensation or years of creditable service of the retiree
179 or DROP participant. Before July 1, 1991, upon employment of any
180 person, other than an elected officer as provided in s. 121.053,
181 who is retired under a state-administered retirement program,
182 the employer shall pay retirement contributions in an amount
183 equal to the unfunded actuarial liability portion of the
184 employer contribution which would be required for regular
185 members of the Florida Retirement System. Effective July 1,
186 1991, contributions shall be made as provided in s. 121.122 for
187 retirees who have renewed membership or, as provided in
188 subsection (13), for DROP participants.

189 3. Any person who is holding an elective public office
190 which is covered by the Florida Retirement System and who is
191 concurrently employed in nonelected covered employment may elect
192 to retire while continuing employment in the elective public
193 office if he or she terminates his or her nonelected covered
194 employment. Such person shall receive his or her retirement
195 benefits in addition to the compensation of the elective office
196 without regard to the time limitations otherwise provided in
197 this subsection. A person who seeks to exercise the provisions
198 of this subparagraph as they existed before May 3, 1984, may not
199 be deemed to be retired under those provisions, unless such
200 person is eligible to retire under this subparagraph, as amended
201 by chapter 84-11, Laws of Florida.

202 (c) Any person whose retirement is effective on or after
203 July 1, 2010, or whose participation in the Deferred Retirement

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204 Option Program terminates on or after July 1, 2010, who is
205 retired under this chapter, except ~~under the disability~~
206 ~~retirement provisions of subsection (4) or~~ as provided in s.
207 121.053, may be reemployed by an employer that participates in a
208 state-administered retirement system and receive retirement
209 benefits and compensation from that employer. However, a person
210 may not be reemployed by an employer participating in the
211 Florida Retirement System before meeting the definition of
212 termination in s. 121.021 and may not receive both a salary from
213 the employer and retirement benefits for 6 calendar months after
214 meeting the definition of termination. However, a DROP
215 participant shall continue employment and receive a salary
216 during the period of participation in the Deferred Retirement
217 Option Program, as provided in subsection (13).

218 1. The reemployed retiree may not renew membership in the
219 Florida Retirement System.

220 2. The employer shall pay retirement contributions in an
221 amount equal to the unfunded actuarial liability portion of the
222 employer contribution that would be required for active members
223 of the Florida Retirement System in addition to the
224 contributions required by s. 121.76.

225 3. A retiree initially reemployed in violation of this
226 paragraph and an employer that employs or appoints such person
227 are jointly and severally liable for reimbursement of any
228 retirement benefits paid to the retirement trust fund from which
229 the benefits were paid, including the Florida Retirement System
230 Trust Fund and the Public Employee Optional Retirement Program
231 Trust Fund, as appropriate. The employer must have a written
232 statement from the employee that he or she is not retired from a

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233 state-administered retirement system. Retirement benefits shall
234 remain suspended until repayment is made. Benefits suspended
235 beyond the end of the retiree's 6-month reemployment limitation
236 period shall apply toward the repayment of benefits received in
237 violation of this paragraph.

238 (d) The provisions of this subsection apply to retirees, as
239 defined in s. 121.4501(2), of the Public Employee Optional
240 Retirement Program, subject to the following conditions:

241 1. The retirees may not be reemployed with an employer
242 participating in the Florida Retirement System until such person
243 has been retired for 6 calendar months.

244 2. A retiree employed in violation of this subsection and
245 an employer that employs or appoints such person are jointly and
246 severally liable for reimbursement of any benefits paid to the
247 retirement trust fund from which the benefits were paid,
248 including the Retirement System Trust Fund and the Public
249 Employee Optional Retirement Program Trust Fund, as appropriate.
250 The employer must have a written statement from the retiree that
251 he or she is not retired from a state-administered retirement
252 system.

253 (e) An employing agency may reemploy a law enforcement
254 officer, firefighter, correctional officer, emergency medical
255 technician, paramedic, or community-based correctional probation
256 officer who has met the definition of termination in s. 121.021
257 under the disability retirement provisions of subparagraph (4).
258 Such employee may receive compensation from that employment
259 without otherwise limiting or restricting the retirement
260 benefits payable to that person under this chapter. However,
261 such retired member may not be reemployed in the position he or

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262 she held at the time of the disabling illness or injury or in a
263 position in the Special Risk Class.

264 1. The employing agency reemploying such member is subject
265 to the applicable retirement contribution required under
266 subparagraph (b)2. or subparagraph (c)2.

267 2. Any retired member who is reemployed prior to
268 termination and his or her employer are jointly and severally
269 liable for reimbursement of any retirement benefits paid to the
270 retirement trust fund from which the benefits were paid,
271 including the Florida Retirement System Trust Fund and the
272 Public Employee Optional Retirement Program Trust Fund. The
273 employer must have a written statement from the retiree that he
274 or she is not retired from a state-administered retirement
275 system. Retirement benefits remain suspended until repayment has
276 been made. Benefits suspended beyond the reemployment limitation
277 apply toward repayment of benefits received in violation of the
278 reemployment limitation.

279 (f)(e) The limitations of this subsection apply to
280 reemployment in any capacity irrespective of the category of
281 funds from which the person is compensated.

282 Section 2. The Legislature finds that a proper state
283 purpose is served when firefighters, emergency medical
284 technicians, paramedics, law enforcement officers, correctional
285 officers, and correctional probation officers who are employees
286 and retirees of the state and its political subdivisions, and
287 the dependents, survivors, and beneficiaries of such employees
288 and retirees, participate in a uniform retirement system. These
289 persons must be provided benefits that are fair and adequate and
290 that are funded in an actuarially sound manner as required by s.

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291 14, Article X of the State Constitution and part VII of chapter
292 112, Florida Statutes. Therefore, the Legislature determines and
293 declares that this act fulfills an important state interest.

294 Section 3. This act shall take effect July 1, 2010.