

By Senator Gaetz

4-00410C-11

20111160\_\_

1                   A bill to be entitled  
2       An act relating to retirement; amending s. 121.091,  
3       F.S.; revising provisions relating to employment after  
4       retirement; providing that a retiree of a state-  
5       administered retirement system who retires on or after  
6       a certain date may not be reemployed by an employer  
7       that participates in a state-administered retirement  
8       system and receive both a salary for employment and  
9       retirement benefits; requiring that a retiree who  
10      retires on or after a certain date and who is  
11      reemployed within 6 calendar months after retirement  
12      apply to establish a future retirement date; providing  
13      that a retiree who is employed by an employing entity  
14      or contractor that does not participate in a state-  
15      administered retirement system, but who performs  
16      services for an employer that does participate, may  
17      not receive retirement benefits during such  
18      employment; amending s. 121.591, F.S.; conforming a  
19      cross-reference; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23       Section 1. Subsection (9) of section 121.091, Florida  
24       Statutes, is amended to read:

25       121.091 Benefits payable under the system.—Benefits may not  
26       be paid under this section unless the member has terminated  
27       employment as provided in s. 121.021(39) (a) or begun  
28       participation in the Deferred Retirement Option Program as  
29       provided in subsection (13), and a proper application has been

4-00410C-11

20111160\_\_

30 filed in the manner prescribed by the department. The department  
31 may cancel an application for retirement benefits when the  
32 member or beneficiary fails to timely provide the information  
33 and documents required by this chapter and the department's  
34 rules. The department shall adopt rules establishing procedures  
35 for application for retirement benefits and for the cancellation  
36 of such application when the required information or documents  
37 are not received.

38 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

39 (a) Except as provided in paragraph (e), any person who is  
40 retired under this chapter, except as provided under the  
41 disability retirement provisions of subsection (4), may be  
42 employed by an employer that does not participate in a state-  
43 administered retirement system and receive compensation from  
44 that employment without limiting or restricting in any way the  
45 retirement benefits payable to that person.

46 (b) Any person who retires under this chapter and whose  
47 retirement is effective before July 1, 2010, or whose  
48 participation in the Deferred Retirement Option Program (DROP)  
49 terminates before July 1, 2010, except as provided under the  
50 disability retirement provisions of subsection (4) or as  
51 provided in s. 121.053, may be reemployed by an employer that  
52 participates in a state-administered retirement system and  
53 receive both retirement benefits and compensation from that  
54 employer. However, ~~except that~~ the person may not be reemployed  
55 by an employer participating in the Florida Retirement System  
56 until such person has been terminated from employment for at  
57 least 1 calendar month ~~before meeting the definition of~~  
58 ~~termination in s. 121.021~~ and may not receive both a salary from

4-00410C-11

20111160

59 the employer and retirement benefits for 12 calendar months  
60 following ~~immediately subsequent to~~ the date of retirement or  
61 the DROP termination date. ~~However, a DROP participant shall~~  
62 ~~continue employment and receive a salary during the period of~~  
63 ~~participation in the Deferred Retirement Option Program, as~~  
64 ~~provided in subsection (13).~~

65 1. A retiree who is reemployed within 1 calendar month  
66 after retirement or the DROP termination date voids his or her  
67 retirement and must repay any retirement benefits received to  
68 the retirement trust fund from which the benefits were paid.

69 ~~2.1.~~ A retiree who is reemployed 1 calendar month after  
70 retirement or the DROP termination date but violates such  
71 reemployment limitation before completion of the 12-month  
72 limitation period must give timely notice of this fact in  
73 writing to the employer and to the Division of Retirement or the  
74 state board and shall have his or her retirement benefits  
75 suspended for the months employed, or the balance of the 12-  
76 month limitation period as required in sub-subparagraphs b. and  
77 c., and any amount suspended shall be forfeited to the  
78 retirement plan. A retiree employed during this period is liable  
79 for repayment of any retirement benefits paid during the  
80 reemployment limitation period. If the employer fails to notify  
81 the division or state board in writing to suspend the employee's  
82 retirement benefits, the employer and retiree ~~A retiree employed~~  
83 ~~in violation of this paragraph and an employer who employs or~~  
84 ~~appoints such person~~ are jointly and severally liable for  
85 repayment of these benefits ~~reimbursement~~ to the retirement  
86 ~~trust fund, including the Florida Retirement System Trust Fund~~  
87 ~~and the Public Employee Optional Retirement Program Trust Fund,~~

4-00410C-11

20111160\_\_

88 from which the benefits were paid. The employer must have a  
89 written statement from the retiree that he or she is not retired  
90 from a state-administered retirement system. Retirement benefits  
91 ~~shall~~ remain suspended until repayment is ~~has been~~ made. Any  
92 benefits suspended ~~beyond the reemployment limitation shall~~  
93 apply toward repayment of benefits received in violation of the  
94 reemployment limitation, and shall be forfeited to the  
95 retirement plan.

96 a. A district school board may reemploy a retiree as a  
97 substitute or hourly teacher, education paraprofessional,  
98 transportation assistant, bus driver, or food service worker on  
99 a noncontractual basis after he or she has been retired for 1  
100 calendar month. A district school board may reemploy a retiree  
101 as instructional personnel, as defined in s. 1012.01(2)(a), on  
102 an annual contractual basis after he or she has been retired for  
103 1 calendar month. ~~Any member who is reemployed within 1 calendar~~  
104 ~~month after retirement shall void his or her application for~~  
105 ~~retirement benefits. District school boards reemploying such~~  
106 ~~teachers, education paraprofessionals, transportation~~  
107 ~~assistants, bus drivers, or food service workers are subject to~~  
108 ~~the retirement contribution required by subparagraph 2.~~

109 b. A community college board of trustees may reemploy a  
110 retiree as an adjunct instructor or as a participant in a phased  
111 retirement program within the Florida Community College System,  
112 after he or she has been retired for 1 calendar month. ~~A member~~  
113 ~~who is reemployed within 1 calendar month after retirement shall~~  
114 ~~void his or her application for retirement benefits. Boards of~~  
115 ~~trustees reemploying such instructors are subject to the~~  
116 ~~retirement contribution required in subparagraph 2.~~ A retiree

4-00410C-11

20111160\_\_

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

140 c. A state university board of trustees ~~The State~~  
141 ~~University System~~ may reemploy a retiree as an adjunct faculty  
142 member or as a participant in a phased retirement program within  
143 the State University System after the retiree has been retired  
144 for 1 calendar month. ~~A member who is reemployed within 1~~  
145 ~~calendar month after retirement shall void his or her~~

4-00410C-11

20111160\_\_

146 ~~application for retirement benefits. The State University System~~  
147 ~~is subject to the retired contribution required in subparagraph~~  
148 ~~2., as appropriate. A retiree may be reemployed as an adjunct~~  
149 ~~faculty member or a participant in a phased retirement program~~  
150 ~~for no more than 780 hours during the first 12 months of his or~~  
151 ~~her retirement. A retiree reemployed for more than 780 hours~~  
152 ~~during the first 12 months of retirement must give timely notice~~  
153 ~~in writing to the employer and to the Division of Retirement or~~  
154 ~~the state board of the date he or she will exceed the~~  
155 ~~limitation. The division or state board shall suspend his or her~~  
156 ~~retirement benefits for the remainder of the 12 months. Any~~  
157 ~~retiree employed in violation of this sub-subparagraph and any~~  
158 ~~employer who employs or appoints such person without notifying~~  
159 ~~the division to suspend retirement benefits are jointly and~~  
160 ~~severally liable for any benefits paid during the reemployment~~  
161 ~~limitation period. The employer must have a written statement~~  
162 ~~from the retiree that he or she is not retired from a state-~~  
163 ~~administered retirement system. Any retirement benefits received~~  
164 ~~by the retiree while reemployed in excess of 780 hours during~~  
165 ~~the first 12 months of retirement must be repaid to the~~  
166 ~~retirement trust fund from which the benefits were paid Florida~~  
167 ~~Retirement System Trust Fund, and retirement benefits shall~~  
168 ~~remain suspended until repayment is made. Benefits suspended~~  
169 ~~beyond the end of the retiree's first 12 months of retirement~~  
170 ~~shall apply toward repayment of benefits received in violation~~  
171 ~~of the 780-hour reemployment limitation.~~

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

4-00410C-11

20111160

175 noncontractual basis after he or she has been retired for 1  
176 calendar month. ~~Any member who is reemployed within 1 calendar~~  
177 ~~month after retirement shall void his or her application for~~  
178 ~~retirement benefits. The Board of Trustees of the Florida School~~  
179 ~~for the Deaf and the Blind reemploying such teachers,~~  
180 ~~residential instructors, or nurses is subject to the retirement~~  
181 ~~contribution required by subparagraph 2.~~

182 e. A developmental research school may reemploy a retiree  
183 as a substitute or hourly teacher or an education  
184 paraprofessional as defined in s. 1012.01(2) on a noncontractual  
185 basis after he or she has been retired for 1 calendar month. A  
186 developmental research school may reemploy a retiree as  
187 instructional personnel, as defined in s. 1012.01(2)(a), on an  
188 annual contractual basis after he or she has been retired for 1  
189 calendar month ~~after retirement. Any member who is reemployed~~  
190 ~~within 1 calendar month voids his or her application for~~  
191 ~~retirement benefits. A developmental research school that~~  
192 ~~reemploys retired teachers and education paraprofessionals is~~  
193 ~~subject to the retirement contribution required by subparagraph~~  
194 ~~2.~~

195 f. A charter school may reemploy a retiree as a substitute  
196 or hourly teacher on a noncontractual basis after he or she has  
197 been retired for 1 calendar month. A charter school may reemploy  
198 a retired member as instructional personnel, as defined in s.  
199 1012.01(2)(a), on an annual contractual basis after he or she  
200 has been retired for 1 calendar month ~~after retirement. Any~~  
201 ~~member who is reemployed within 1 calendar month voids his or~~  
202 ~~her application for retirement benefits. A charter school that~~  
203 ~~reemploys such teachers is subject to the retirement~~

4-00410C-11

20111160\_\_

204 ~~contribution required by subparagraph 2.~~

205 ~~3.2.~~ The employment of a retiree or DROP participant of a  
206 state-administered retirement system does not affect the average  
207 final compensation or years of creditable service of the retiree  
208 or DROP participant. Before July 1, 1991, upon employment of any  
209 person, other than an elected officer as provided in s. 121.053,  
210 who is retired under a state-administered retirement program,  
211 the employer shall pay retirement contributions in an amount  
212 equal to the unfunded actuarial liability portion of the  
213 employer contribution which would be required for regular  
214 members of the Florida Retirement System. Effective July 1,  
215 1991, contributions shall be made as provided in s. 121.122 for  
216 retirees who have renewed membership or, as provided in  
217 subsection (13), for DROP participants.

218 ~~4.3.~~ Any person who is holding an elective public office  
219 which is covered by the Florida Retirement System and who is  
220 concurrently employed in nonelected covered employment may elect  
221 to retire while continuing employment in the elective public  
222 office if he or she terminates his or her nonelected covered  
223 employment. Such person shall receive his or her retirement  
224 benefits in addition to the compensation of the elective office  
225 without regard to the time limitations otherwise provided in  
226 this subsection. A person who seeks to exercise the provisions  
227 of this subparagraph as they existed before May 3, 1984, may not  
228 be deemed to be retired under those provisions, unless such  
229 person is eligible to retire under this subparagraph, as amended  
230 by chapter 84-11, Laws of Florida.

231 (c) Any person who retires under this chapter and whose  
232 retirement is effective on or after July 1, 2010, but before

4-00410C-11

20111160

233 July 1, 2011, or whose participation in the Deferred Retirement  
234 Option Program (DROP) terminates on or after July 1, 2010, but  
235 before July 1, 2011, ~~who is retired under this chapter~~, except  
236 as provided under the disability retirement provisions of  
237 subsection (4) or as provided in s. 121.053, may be reemployed  
238 by an employer that participates in a state-administered  
239 retirement system and receive both retirement benefits and  
240 compensation from that employer. However, a person may not be  
241 reemployed by an employer participating in the Florida  
242 Retirement System until such person has been terminated from  
243 employment for at least 6 calendar months ~~before meeting the~~  
244 ~~definition of termination in s. 121.021~~ and may not receive both  
245 a salary from the employer and retirement benefits for ~~6~~  
246 calendar months 7 through 12 following the date of retirement or  
247 the DROP termination date ~~after meeting the definition of~~  
248 ~~termination. However, a DROP participant shall continue~~  
249 ~~employment and receive a salary during the period of~~  
250 ~~participation in the Deferred Retirement Option Program, as~~  
251 ~~provided in subsection (13).~~

252 1. The reemployed retiree in a regularly established  
253 position may not renew membership in the Florida Retirement  
254 System.

255 2. The employer shall pay retirement contributions for  
256 retirees reemployed in a regularly established position in an  
257 amount equal to the unfunded actuarial liability portion of the  
258 employer contribution that would be required for active members  
259 of the Florida Retirement System in addition to the  
260 contributions required by s. 121.76.

261 3. A retiree who is reemployed within 6 calendar months

4-00410C-11

20111160

262 after retirement or the DROP termination date voids his or her  
263 retirement and must repay any retirement benefits received to  
264 the retirement trust fund from which the benefits were paid.

265 4.3. A retiree who is initially reemployed during months 7  
266 through 12 after retirement or the DROP termination date must  
267 give timely notice of this fact in writing to the employer and  
268 the Division of Retirement or the state board and shall have his  
269 or her retirement benefits suspended for the months employed,  
270 and any amount suspended shall be forfeited to the retirement  
271 plan. A retiree employed during this period is liable for  
272 repayment of any retirement benefits paid during the  
273 reemployment limitation period. If the employer fails to notify  
274 the division or state board in writing to suspend retirement  
275 benefits, the employer and retiree are jointly and severally  
276 liable for repayment of these benefits to the retirement trust  
277 fund from which the benefits were paid, unless the employer has  
278 a written statement from the retiree indicating that he or she  
279 is not retired from a state-administered retirement system. in  
280 ~~violation of this paragraph and an employer that employs or~~  
281 ~~appoints such person are jointly and severally liable for~~  
282 ~~reimbursement of any retirement benefits paid to the retirement~~  
283 ~~trust fund from which the benefits were paid, including the~~  
284 ~~Florida Retirement System Trust Fund and the Public Employee~~  
285 ~~Optional Retirement Program Trust Fund, as appropriate. The~~  
286 ~~employer must have a written statement from the employee that he~~  
287 ~~or she is not retired from a state-administered retirement~~  
288 ~~system. Retirement benefits shall remain suspended until~~  
289 ~~repayment is made. Any benefits suspended beyond the end of the~~  
290 ~~retiree's 6-month reemployment limitation period shall apply~~

4-00410C-11

20111160

291 toward ~~the~~ repayment of benefits received in violation of this  
292 paragraph, and shall be forfeited to the retirement plan.

293 (d) Any person who retires under this chapter whose  
294 retirement is effective on or after July 1, 2011, or whose  
295 participation in the Defined Retirement Option Program (DROP)  
296 terminates on or after July 1, 2011, except as provided under  
297 the disability retirement provisions of subsection (4) or as  
298 provided in s. 121.053, may not be reemployed by an employer  
299 that participates in a state-administered retirement system and  
300 receive both retirement benefits and salary from that employer  
301 in the same month. If reemployed, such person must have been  
302 terminated from employment for at least 6 calendar months.

303 1. A retiree who is reemployed within 6 calendar months  
304 after retirement or the DROP termination date voids his or her  
305 retirement and must repay any retirement benefits received,  
306 including a DROP payout, to the retirement trust fund from which  
307 the benefits were paid, and apply to establish a future  
308 retirement date.

309 2. A retiree who is reemployed more than 6 calendar months  
310 after retirement or the DROP termination date must give timely  
311 notice of this fact in writing to the employer and the Division  
312 of Retirement or the state board and shall have his or her  
313 retirement benefits suspended during reemployment. The retiree  
314 is liable for repayment of any retirement benefits paid during  
315 the reemployment period. If the employer fails to notify the  
316 division or state board in writing to suspend the employee's  
317 retirement benefits, the employer and retiree are jointly and  
318 severally liable for repayment of these benefits to the  
319 retirement trust fund from which the retirement benefits were

4-00410C-11

20111160

320 paid unless the employer has a written statement from the  
321 retiree indicating that he or she is not retired from a state-  
322 administered retirement system. Retirement benefits remain  
323 suspended until repayment is made. Any benefits suspended after  
324 the retiree ceases employment apply toward repayment of benefits  
325 received in violation of this paragraph, and shall be forfeited  
326 to the retirement plan.

327 3. Upon ceasing reemployment, the retiree shall resume  
328 retirement benefits under the state-administered retirement  
329 system without recalculation of the retirement benefits to  
330 include additional service credit.

331 4. The reemployed retiree in a regularly established  
332 position may not renew membership in the Florida Retirement  
333 System.

334 5. The employer shall pay retirement contributions for  
335 retirees reemployed in a regularly established position in an  
336 amount equal to the unfunded actuarial liability portion of the  
337 employer contribution that would be required for active members  
338 of the Florida Retirement System in that position in addition to  
339 the contributions required by s. 121.76.

340 (e) Any person who retires under this chapter whose  
341 retirement is effective on or after July 1, 2011, or whose  
342 participation in the Deferred Retirement Option Program (DROP)  
343 terminates on or after July 1, 2011, who performs services for  
344 an employer that participates in a state-administered retirement  
345 system, but who is employed by an employing entity or contractor  
346 that does not participate in a state-administered retirement  
347 system, shall have his or her retirement benefits from the  
348 state-administered retirement system suspended for each month

4-00410C-11

20111160

349 the person performs services for the employer that participates  
350 in the state-administered retirement system. This restriction  
351 applies beginning the first effective month of retirement or the  
352 month after the DROP termination date and throughout retirement.  
353 When the retiree is no longer providing services to the employer  
354 who participates in the state-administered retirement system,  
355 the retiree shall resume retirement benefits from the state-  
356 administered retirement system. Any amount suspended shall be  
357 forfeited to the retirement plan.

358 (f)~~(d)~~ The provisions of this subsection apply to retirees,  
359 as defined in s. 121.4501(2), of the Public Employee Optional  
360 Retirement Program, subject to the following conditions:

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

364 2. Any retiree who is reemployed within 6 calendar months  
365 after retirement is liable for the repayment of any benefits  
366 paid during the reemployment limitation period. If the retiree's  
367 employer fails to notify the division or state board in writing  
368 to suspend the employee's retirement benefits, the employer and  
369 retiree are jointly and severally liable for the repayment of  
370 these benefits to the retirement trust fund from which the  
371 benefits were paid, unless the employer has a written statement  
372 from the retiree that he or she is not retired from a state-  
373 administered retirement system. ~~A retiree employed in violation~~  
374 ~~of this subsection and an employer that employs or appoints such~~  
375 ~~person are jointly and severally liable for reimbursement of any~~  
376 ~~benefits paid to the retirement trust fund from which the~~  
377 ~~benefits were paid, including the Retirement System Trust Fund~~

4-00410C-11

20111160

378 ~~and the Public Employee Optional Retirement Program Trust Fund,~~  
379 ~~as appropriate. The employer must have a written statement from~~  
380 ~~the retiree that he or she is not retired from a state-~~  
381 ~~administered retirement system.~~

382 (g) The reemployment limitations in this subsection apply  
383 to retirees of all state-administered retirement systems,  
384 including the Senior Management Service Optional Annuity  
385 Program, the State University System Optional Retirement  
386 Program, and the State Community College Optional Retirement  
387 Program.

388 (h) ~~(e)~~ The limitations of this subsection apply to  
389 reemployment in any capacity irrespective of the category of  
390 funds from which the person is compensated.

391 Section 2. Paragraph (a) of subsection (1) of section  
392 121.591, Florida Statutes, is amended to read:

393 121.591 Benefits payable under the Public Employee Optional  
394 Retirement Program of the Florida Retirement System.—Benefits  
395 may not be paid under this section unless the member has  
396 terminated employment as provided in s. 121.021(39)(a) or is  
397 deceased and a proper application has been filed in the manner  
398 prescribed by the state board or the department. The state board  
399 or department, as appropriate, may cancel an application for  
400 retirement benefits when the member or beneficiary fails to  
401 timely provide the information and documents required by this  
402 chapter and the rules of the state board and department. In  
403 accordance with their respective responsibilities as provided  
404 herein, the State Board of Administration and the Department of  
405 Management Services shall adopt rules establishing procedures  
406 for application for retirement benefits and for the cancellation

4-00410C-11

20111160

407 of such application when the required information or documents  
408 are not received. The State Board of Administration and the  
409 Department of Management Services, as appropriate, are  
410 authorized to cash out a de minimis account of a participant who  
411 has been terminated from Florida Retirement System covered  
412 employment for a minimum of 6 calendar months. A de minimis  
413 account is an account containing employer contributions and  
414 accumulated earnings of not more than \$5,000 made under the  
415 provisions of this chapter. Such cash-out must either be a  
416 complete lump-sum liquidation of the account balance, subject to  
417 the provisions of the Internal Revenue Code, or a lump-sum  
418 direct rollover distribution paid directly to the custodian of  
419 an eligible retirement plan, as defined by the Internal Revenue  
420 Code, on behalf of the participant. If any financial instrument  
421 issued for the payment of retirement benefits under this section  
422 is not presented for payment within 180 days after the last day  
423 of the month in which it was originally issued, the third-party  
424 administrator or other duly authorized agent of the State Board  
425 of Administration shall cancel the instrument and credit the  
426 amount of the instrument to the suspense account of the Public  
427 Employee Optional Retirement Program Trust Fund authorized under  
428 s. 121.4501(6). Any such amounts transferred to the suspense  
429 account are payable upon a proper application, not to include  
430 earnings thereon, as provided in this section, within 10 years  
431 after the last day of the month in which the instrument was  
432 originally issued, after which time such amounts and any  
433 earnings thereon shall be forfeited. Any such forfeited amounts  
434 are assets of the Public Employee Optional Retirement Program  
435 Trust Fund and are not subject to the provisions of chapter 717.

4-00410C-11

20111160\_\_

436 (1) NORMAL BENEFITS.—Under the Public Employee Optional  
437 Retirement Program:

438 (a) Benefits in the form of vested accumulations as  
439 described in s. 121.4501(6) are payable ~~under this subsection~~ in  
440 accordance with the following terms and conditions:

441 1. To the extent vested, benefits are payable only to a  
442 participant.

443 2. Benefits shall be paid by the third-party administrator  
444 or designated approved providers in accordance with the law, the  
445 contracts, and any applicable board rule or policy.

446 3. To receive benefits, the participant must be terminated  
447 from all employment with all Florida Retirement System  
448 employers, as provided in s. 121.021(39).

449 4. Benefit payments may not be made until the participant  
450 has been terminated for 3 calendar months, except that the board  
451 may authorize by rule for the distribution of up to 10 percent  
452 of the participant's account after being terminated for 1  
453 calendar month if the participant has reached the normal  
454 retirement date as defined in s. 121.021 of the defined benefit  
455 plan.

456 5. If a member or former member of the Florida Retirement  
457 System receives an invalid distribution from the Public Employee  
458 Optional Retirement Program Trust Fund, such person must repay  
459 the full invalid distribution to the trust fund within 90 days  
460 after receipt of final notification by the state board or the  
461 third-party administrator that the distribution was invalid. If  
462 such person fails to repay the full invalid distribution within  
463 90 days after receipt of final notification, the person may be  
464 deemed retired from the optional retirement program by the state

4-00410C-11

20111160\_\_

465 board, as provided pursuant to s. 121.4501(2)(k), and is subject  
466 to s. 121.122. If such person is deemed retired ~~by the state~~  
467 ~~board~~, any joint and several liability set out in s.  
468 121.091(9)(f)2. ~~121.091(9)(d)2.~~ becomes null and void, and the  
469 state board, the department, or the employing agency is not  
470 liable for gains on payroll contributions that have not been  
471 deposited to the person's account in the retirement program,  
472 pending resolution of the invalid distribution. The member or  
473 former member who has been deemed retired or who has been  
474 determined by the board to have taken an invalid distribution  
475 may appeal the agency decision through the complaint process as  
476 provided under s. 121.4501(9)(g)3. As used in this subparagraph,  
477 the term "invalid distribution" means any distribution from an  
478 account in the optional retirement program which is taken in  
479 violation of this section, s. 121.091(9), or s. 121.4501.

480 Section 3. This act shall take effect July 1, 2011.