

By Senator Altman

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

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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 pay the cost of the retired justice or judge. The use of this
33 program may not diminish or otherwise affect the power and
34 authority of the Chief Justice to assign justices or judges,
35 including consenting retired justices or judges, to temporary
36 duty in any court for which the justice or judge is qualified or
37 to delegate to a chief judge of a circuit the power to assign
38 justices or judges for duty in that circuit. At a minimum, the
39 program developed under this subsection must be operated as
40 follows:

41 (a)1. Any party to the action may request that a retired
42 justice or judge hear one or more nondispositive motions. The
43 party may seek appointment of a retired justice or judge to hear
44 more than one nondispositive motion in that case. The chief
45 judge of the circuit may not appoint a retired justice or judge
46 if the trial judge assigned to the case can accommodate the
47 hearing or hearings within 2 weeks after the request for
48 appointment of a retired justice or judge.

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

58 (b)1. A party or parties seeking to use a retired justice

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59 or judge must submit a written request to the chief judge,
60 stating the reasons for the request.

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

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

70 4. Only retired justices or judges who are on the list that
71 is approved by the Chief Justice are eligible for appointment in
72 this program. Assignment of such retired justices or judges
73 shall be made in accordance with current procedures for the
74 assignment of judges in each judicial circuit. A party may not
75 request that a particular retired justice or judge be 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 conduct multiple hearings in 1 day involving related or
79 unrelated cases.

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

84 2. The party or parties who requested the appointment of a
85 retired justice or judge must prepay the per diem rate of the
86 retired justice or judge before the hearing or trial based on
87 the per diem rate then in effect. The minimum charge for

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

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

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

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

110 6. A refund may not be paid to any party after a hearing or
111 trial is scheduled, prepayment is made as required under this
112 subsection, and the state is required to make payment to the
113 retired justice or judge. A refund is authorized only if the
114 assigned retired justice or judge becomes unavailable for
115 reasons unrelated to the conduct of the parties.

116 7. A party who is relieved of the requirement to prepay

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117 costs in an action is not relieved of the requirement under this
118 subsection to prepay the costs of a retired justice or judge
119 before the request is granted.

120 (d)1. If a party seeks appointment of a retired justice or
121 judge to hear one or more motions, the costs of the retired
122 justice or judge are not taxable against a nonprevailing party.

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

129 Section 2. Present subsections (3) through (14) of section
130 44.104, Florida Statutes, are redesignated as subsections (4)
131 through (15), respectively, and a new subsection (3) is added to
132 that section, to read:

133 44.104 Voluntary binding arbitration and voluntary trial
134 resolution.—

135 (3) Voluntary trial resolution may include a jury trial if
136 there is a right to a jury trial in the civil dispute and if
137 there has been a request for a jury trial by at least one party.
138 The trial resolution judge shall preside over the jury trial.
139 The jury trial conducted as part of the voluntary trial
140 resolution must be conducted according to the laws applicable to
141 civil jury trials.

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