

20121570e1

1 A bill to be entitled
2 An act relating to justices and judges; amending s.
3 25.073, F.S.; providing that, for a retired justice or
4 retired judge who has consented to temporary duty in
5 any court, the definition of the term "termination" in
6 ch. 121, F.S., does not apply, and termination occurs
7 when the retired justice or judge ceases all
8 nontemporary, active duty as a judge and retires from
9 the Florida Retirement System; amending s. 43.291,
10 F.S.; revising requirements for the appointment of
11 members of judicial nominating commissions; providing
12 that, with the exception of members selected from a
13 list of nominees provided by the Board of Governors of
14 The Florida Bar, a current member of a judicial
15 nominating commission appointed by the Governor serves
16 at the pleasure of the Governor; providing staggered
17 terms for members of a judicial nominating commission;
18 deleting obsolete provisions; deleting a requirement
19 that the Executive Office of the Governor establish
20 uniform rules of procedure consistent with the State
21 Constitution when suspending for cause a member of a
22 judicial nominating commission; amending s. 121.021,
23 F.S.; revising the definition of the term
24 "termination," to conform to changes made by the act;
25 amending s. 121.091, F.S.; providing that a retired
26 justice or retired judge who has reached his or her
27 normal retirement age or date and consents to
28 temporary employment as a senior judge in any court,
29 as assigned by the Chief Justice of the Supreme Court,

20121570e1

30 is not subject to certain specified limitations on
31 employment after retirement; amending s. 121.591,
32 F.S.; providing that a retired justice or retired
33 judge who has consented to temporary employment as a
34 senior judge in any court may receive a regular
35 distribution of his or her retirement benefits account
36 after providing proof of termination from his or her
37 regularly established position; providing that, in
38 order to fund the benefit changes set forth in the
39 act, the required employer contribution rates of the
40 Florida Retirement System, and the required employer
41 contribution rates for the unfunded actuarial
42 liability of the Florida Retirement System, are
43 increased by specified amounts; providing a statement
44 of important state interest; providing that specified
45 provisions of the act relating to retired justices and
46 judges take effect only if the Legislature
47 appropriates sufficient funds and the State Courts
48 Administrator certifies that the appropriation was
49 made and that the appropriation was not vetoed by the
50 Governor; providing effective dates.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Subsection (4) is added to section 25.073,
55 Florida Statutes, to read:

56 25.073 Retired justices or judges assigned to temporary
57 duty; additional compensation; appropriation.—

58 (4) For a retired justice or retired judge who has reached

20121570e1

59 his or her normal retirement age or date under chapter 121 and
60 who has consented to temporary duty in any court, as assigned by
61 the Chief Justice of the Supreme Court in accordance with s. 2,
62 Art. V of the State Constitution:

63 (a) The definition of the term "termination" in s. 121.021
64 does not apply, and termination occurs when the justice or judge
65 ceases all nontemporary, active duty as a judge and retires from
66 the Florida Retirement System.

67 (b) Section 121.091(9)(c) does not apply, and such
68 temporary duty is not considered reemployment or employment
69 after retirement for purposes of chapter 121 and renewed
70 membership in the Florida Retirement System is not permitted.

71 Section 2. Effective upon this act becoming a law,
72 subsections (1), (3), and (5) of section 43.291, Florida
73 Statutes, are amended to read:

74 43.291 Judicial nominating commissions.—

75 (1) (a) Each judicial nominating commission shall be
76 composed of the following members:

77 1. ~~(a)~~ Four members of The Florida Bar, appointed by the
78 Governor, who are engaged in the practice of law, each of whom
79 is a resident of the territorial jurisdiction served by the
80 commission to which the member is appointed. The Board of
81 Governors of The Florida Bar shall submit to the Governor three
82 recommended nominees for each position. The Governor shall
83 select the appointee from the list of nominees recommended for
84 that position, but the Governor may reject all of the nominees
85 recommended for a position and request that the Board of
86 Governors submit a new list of three different recommended
87 nominees for that position who have not been previously

20121570e1

88 recommended by the Board of Governors.

89 2.~~(b)~~ Five members appointed by the Governor, each of whom
90 is a resident of the territorial jurisdiction served by the
91 commission to which the member is appointed, of which at least
92 two are members of The Florida Bar engaged in the practice of
93 law. Notwithstanding any other law, each member of a judicial
94 nominating commission appointed by the Governor after January 4,
95 2011, other than those selected from a list of nominees provided
96 by the Board of Governors of The Florida Bar, shall serve at the
97 pleasure of the Governor.

98 (b) Each expired term or vacancy shall be filled by
99 appointment in the same manner as the member whose position is
100 being filled.

101 (3) Members of a judicial nominating commission shall be
102 appointed to serve staggered terms as follows:

103 (a) Two appointments directly by the Governor and one
104 appointment from the list of nominees provided by the Board of
105 Governors of The Florida Bar for terms ending on July 1, 2012.

106 (b) One appointment directly by the Governor and two
107 appointments from the list of nominees provided by the Board of
108 Governors of The Florida Bar for terms ending on July 1, 2014.

109 (c) Two appointments directly by the Governor and one
110 appointment from the list of nominees provided by the Board of
111 Governors of The Florida Bar for terms ending on July 1, 2015.
112 ~~Notwithstanding any other provision of this section, each~~
113 ~~current member of a judicial nominating commission appointed~~
114 ~~directly by the Board of Governors of The Florida Bar shall~~
115 ~~serve the remainder of his or her term, unless removed for~~
116 ~~cause. The terms of all other members of a judicial nominating~~

20121570e1

117 ~~commission are hereby terminated, and the Governor shall appoint~~
118 ~~new members to each judicial nominating commission in the~~
119 ~~following manner:~~

120 ~~(a) Two appointments for terms ending July 1, 2002, one of~~
121 ~~which shall be an appointment selected from nominations~~
122 ~~submitted by the Board of Governors of The Florida Bar pursuant~~
123 ~~to paragraph (1) (a);~~

124 ~~(b) Two appointments for terms ending July 1, 2003; and~~

125 ~~(c) Two appointments for terms ending July 1, 2004.~~

126

127 Every subsequent appointment, except an appointment to fill a
128 vacant, unexpired term, shall be for 4 years. ~~Each expired term~~
129 ~~or vacancy shall be filled by appointment in the same manner as~~
130 ~~the member whose position is being filled.~~

131 (5) A member of a judicial nominating commission may be
132 suspended for cause by the Governor ~~pursuant to uniform rules of~~
133 ~~procedure established by the Executive Office of the Governor~~
134 consistent with s. 7, ~~of~~ Art. IV of the State Constitution.

135 Section 3. Subsection (39) of section 121.021, Florida
136 Statutes, is amended to read:

137 121.021 Definitions.—The following words and phrases as
138 used in this chapter have the respective meanings set forth
139 unless a different meaning is plainly required by the context:

140 (39) (a) "Termination" occurs, except as provided in
141 paragraph (b) or paragraph (d), when a member ceases all
142 employment relationships with participating employers, however:

143 1. For retirements effective before July 1, 2010, if a
144 member is employed by any such employer within the next calendar
145 month, termination shall be deemed not to have occurred. A leave

20121570e1

146 of absence constitutes a continuation of the employment
147 relationship, except that a leave of absence without pay due to
148 disability may constitute termination if such member makes
149 application for and is approved for disability retirement in
150 accordance with s. 121.091(4). The department or state board may
151 require other evidence of termination as it deems necessary.

152 2. For retirements effective on or after July 1, 2010, if a
153 member is employed by any such employer within the next 6
154 calendar months, termination shall be deemed not to have
155 occurred. A leave of absence constitutes a continuation of the
156 employment relationship, except that a leave of absence without
157 pay due to disability may constitute termination if such member
158 makes application for and is approved for disability retirement
159 in accordance with s. 121.091(4). The department or state board
160 may require other evidence of termination as it deems necessary.

161 (b) "Termination" for a member electing to participate in
162 the Deferred Retirement Option Program occurs when the program
163 participant ceases all employment relationships with
164 participating employers in accordance with s. 121.091(13),
165 however:

166 1. For termination dates occurring before July 1, 2010, if
167 the member is employed by any such employer within the next
168 calendar month, termination will be deemed not to have occurred,
169 except as provided in s. 121.091(13)(b)4.c. A leave of absence
170 shall constitute a continuation of the employment relationship.

171 2. For termination dates occurring on or after July 1,
172 2010, if the member becomes employed by any such employer within
173 the next 6 calendar months, termination will be deemed not to
174 have occurred, except as provided in s. 121.091(13)(b)4.c. A

20121570e1

175 leave of absence constitutes a continuation of the employment
176 relationship.

177 (c) Effective July 1, 2011, "termination" for a member
178 receiving a refund of employee contributions occurs when a
179 member ceases all employment relationships with participating
180 employers for 3 calendar months. A leave of absence constitutes
181 a continuation of the employment relationship.

182 (d) Effective July 1, 2012, a retired justice or retired
183 judge who has reached his or her normal retirement age or date
184 and who consents to temporary employment as a senior judge in
185 any court, as assigned by the Chief Justice of the Supreme Court
186 in accordance with s. 2, Art. V of the State Constitution, meets
187 the definition of "termination" when all nontemporary employment
188 as a judge ceases and the justice or judge retires under this
189 chapter.

190 Section 4. Subsection (9) of section 121.091, Florida
191 Statutes, is amended to read:

192 121.091 Benefits payable under the system.—Benefits may not
193 be paid under this section unless the member has terminated
194 employment as provided in s. 121.021(39)(a) or begun
195 participation in the Deferred Retirement Option Program as
196 provided in subsection (13), and a proper application has been
197 filed in the manner prescribed by the department. The department
198 may cancel an application for retirement benefits when the
199 member or beneficiary fails to timely provide the information
200 and documents required by this chapter and the department's
201 rules. The department shall adopt rules establishing procedures
202 for application for retirement benefits and for the cancellation
203 of such application when the required information or documents

20121570e1

204 are not received.

205 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

206 (a) Any person who is retired under this chapter, except
207 under the disability retirement provisions of subsection (4),
208 may be employed by an employer that does not participate in a
209 state-administered retirement system and receive compensation
210 from that employment without limiting or restricting in any way
211 the retirement benefits payable to that person.

212 (b) Any person whose retirement is effective before July 1,
213 2010, or whose participation in the Deferred Retirement Option
214 Program terminates before July 1, 2010, except under the
215 disability retirement provisions of subsection (4) or as
216 provided in s. 121.053, may be reemployed by an employer that
217 participates in a state-administered retirement system and
218 receive retirement benefits and compensation from that employer,
219 except that the person may not be reemployed by an employer
220 participating in the Florida Retirement System before meeting
221 the definition of termination in s. 121.021 and may not receive
222 both a salary from the employer and retirement benefits for 12
223 calendar months immediately subsequent to the date of
224 retirement. However, a DROP participant shall continue
225 employment and receive a salary during the period of
226 participation in the Deferred Retirement Option Program, as
227 provided in subsection (13).

228 1. A retiree who violates such reemployment limitation
229 before completion of the 12-month limitation period must give
230 timely notice of this fact in writing to the employer and to the
231 Division of Retirement or the state board and shall have his or
232 her retirement benefits suspended for the months employed or the

20121570e1

233 balance of the 12-month limitation period as required in sub-
234 subparagraphs b. and c. A retiree employed in violation of this
235 paragraph and an employer who employs or appoints such person
236 are jointly and severally liable for reimbursement to the
237 retirement trust fund, including the Florida Retirement System
238 Trust Fund and the Public Employee Optional Retirement Program
239 Trust Fund, from which the benefits were paid. The employer must
240 have a written statement from the retiree that he or she is not
241 retired from a state-administered retirement system. Retirement
242 benefits shall remain suspended until repayment has been made.
243 Benefits suspended beyond the reemployment limitation shall
244 apply toward repayment of benefits received in violation of the
245 reemployment limitation.

246 a. A district school board may reemploy a retiree as a
247 substitute or hourly teacher, education paraprofessional,
248 transportation assistant, bus driver, or food service worker on
249 a noncontractual basis after he or she has been retired for 1
250 calendar month. A district school board may reemploy a retiree
251 as instructional personnel, as defined in s. 1012.01(2)(a), on
252 an annual contractual basis after he or she has been retired for
253 1 calendar month. Any member who is reemployed within 1 calendar
254 month after retirement shall void his or her application for
255 retirement benefits. District school boards reemploying such
256 teachers, education paraprofessionals, transportation
257 assistants, bus drivers, or food service workers are subject to
258 the retirement contribution required by subparagraph 2.

259 b. A community college board of trustees may reemploy a
260 retiree as an adjunct instructor or as a participant in a phased
261 retirement program within the Florida Community College System,

20121570e1

262 after he or she has been retired for 1 calendar month. A member
263 who is reemployed within 1 calendar month after retirement shall
264 void his or her application for retirement benefits. Boards of
265 trustees reemploying such instructors are subject to the
266 retirement contribution required in subparagraph 2. A retiree
267 may be reemployed as an adjunct instructor for no more than 780
268 hours during the first 12 months of retirement. A retiree
269 reemployed for more than 780 hours during the first 12 months of
270 retirement must give timely notice in writing to the employer
271 and to the Division of Retirement or the state board of the date
272 he or she will exceed the limitation. The division shall suspend
273 his or her retirement benefits for the remainder of the 12
274 months of retirement. Any retiree employed in violation of this
275 sub-subparagraph and any employer who employs or appoints such
276 person without notifying the division to suspend retirement
277 benefits are jointly and severally liable for any benefits paid
278 during the reemployment limitation period. The employer must
279 have a written statement from the retiree that he or she is not
280 retired from a state-administered retirement system. Any
281 retirement benefits received by the retiree while reemployed in
282 excess of 780 hours during the first 12 months of retirement
283 must be repaid to the Florida Retirement System Trust Fund, and
284 retirement benefits shall remain suspended until repayment is
285 made. Benefits suspended beyond the end of the retiree's first
286 12 months of retirement shall apply toward repayment of benefits
287 received in violation of the 780-hour reemployment limitation.

288 c. The State University System may reemploy a retiree as an
289 adjunct faculty member or as a participant in a phased
290 retirement program within the State University System after the

20121570e1

291 retiree has been retired for 1 calendar month. A member who is
292 reemployed within 1 calendar month after retirement shall void
293 his or her application for retirement benefits. The State
294 University System is subject to the retired contribution
295 required in subparagraph 2., as appropriate. A retiree may be
296 reemployed as an adjunct faculty member or a participant in a
297 phased retirement program for no more than 780 hours during the
298 first 12 months of his or her retirement. A retiree reemployed
299 for more than 780 hours during the first 12 months of retirement
300 must give timely notice in writing to the employer and to the
301 Division of Retirement or the state board of the date he or she
302 will exceed the limitation. The division shall suspend his or
303 her retirement benefits for the remainder of the 12 months. Any
304 retiree employed in violation of this sub-subparagraph and any
305 employer who employs or appoints such person without notifying
306 the division to suspend retirement benefits are jointly and
307 severally liable for any benefits paid during the reemployment
308 limitation period. The employer must have a written statement
309 from the retiree that he or she is not retired from a state-
310 administered retirement system. Any retirement benefits received
311 by the retiree while reemployed in excess of 780 hours during
312 the first 12 months of retirement must be repaid to the Florida
313 Retirement System Trust Fund, and retirement benefits shall
314 remain suspended until repayment is made. Benefits suspended
315 beyond the end of the retiree's first 12 months of retirement
316 shall apply toward repayment of benefits received in violation
317 of the 780-hour reemployment limitation.

318 d. The Board of Trustees of the Florida School for the Deaf
319 and the Blind may reemploy a retiree as a substitute teacher,

20121570e1

320 substitute residential instructor, or substitute nurse on a
321 noncontractual basis after he or she has been retired for 1
322 calendar month. Any member who is reemployed within 1 calendar
323 month after retirement shall void his or her application for
324 retirement benefits. The Board of Trustees of the Florida School
325 for the Deaf and the Blind reemploying such teachers,
326 residential instructors, or nurses is subject to the retirement
327 contribution required by subparagraph 2.

328 e. A developmental research school may reemploy a retiree
329 as a substitute or hourly teacher or an education
330 paraprofessional as defined in s. 1012.01(2) on a noncontractual
331 basis after he or she has been retired for 1 calendar month. A
332 developmental research school may reemploy a retiree as
333 instructional personnel, as defined in s. 1012.01(2)(a), on an
334 annual contractual basis after he or she has been retired for 1
335 calendar month after retirement. Any member who is reemployed
336 within 1 calendar month voids his or her application for
337 retirement benefits. A developmental research school that
338 reemploys retired teachers and education paraprofessionals is
339 subject to the retirement contribution required by subparagraph
340 2.

341 f. A charter school may reemploy a retiree as a substitute
342 or hourly teacher on a noncontractual basis after he or she has
343 been retired for 1 calendar month. A charter school may reemploy
344 a retired member as instructional personnel, as defined in s.
345 1012.01(2)(a), on an annual contractual basis after he or she
346 has been retired for 1 calendar month after retirement. Any
347 member who is reemployed within 1 calendar month voids his or
348 her application for retirement benefits. A charter school that

20121570e1

349 reemploys such teachers is subject to the retirement
350 contribution required by subparagraph 2.

351 2. The employment of a retiree or DROP participant of a
352 state-administered retirement system does not affect the average
353 final compensation or years of creditable service of the retiree
354 or DROP participant. Before July 1, 1991, upon employment of any
355 person, other than an elected officer as provided in s. 121.053,
356 who is retired under a state-administered retirement program,
357 the employer shall pay retirement contributions in an amount
358 equal to the unfunded actuarial liability portion of the
359 employer contribution which would be required for regular
360 members of the Florida Retirement System. Effective July 1,
361 1991, contributions shall be made as provided in s. 121.122 for
362 retirees who have renewed membership or, as provided in
363 subsection (13), for DROP participants.

364 3. Any person who is holding an elective public office
365 which is covered by the Florida Retirement System and who is
366 concurrently employed in nonelected covered employment may elect
367 to retire while continuing employment in the elective public
368 office if he or she terminates his or her nonelected covered
369 employment. Such person shall receive his or her retirement
370 benefits in addition to the compensation of the elective office
371 without regard to the time limitations otherwise provided in
372 this subsection. A person who seeks to exercise the provisions
373 of this subparagraph as they existed before May 3, 1984, may not
374 be deemed to be retired under those provisions, unless such
375 person is eligible to retire under this subparagraph, as amended
376 by chapter 84-11, Laws of Florida.

377 (c) Any person whose retirement is effective on or after

20121570e1

378 July 1, 2010, or whose participation in the Deferred Retirement
379 Option Program terminates on or after July 1, 2010, who is
380 retired under this chapter, except under the disability
381 retirement provisions of subsection (4) or as provided in s.
382 121.053, may be reemployed by an employer that participates in a
383 state-administered retirement system and receive retirement
384 benefits and compensation from that employer. However, a person
385 may not be reemployed by an employer participating in the
386 Florida Retirement System before meeting the definition of
387 termination in s. 121.021 and may not receive both a salary from
388 the employer and retirement benefits for 6 calendar months after
389 meeting the definition of termination, except as provided in
390 paragraph (f). However, a DROP participant shall continue
391 employment and receive a salary during the period of
392 participation in the Deferred Retirement Option Program, as
393 provided in subsection (13).

394 1. The reemployed retiree may not renew membership in the
395 Florida Retirement System.

396 2. The employer shall pay retirement contributions in an
397 amount equal to the unfunded actuarial liability portion of the
398 employer contribution that would be required for active members
399 of the Florida Retirement System in addition to the
400 contributions required by s. 121.76.

401 3. A retiree initially reemployed in violation of this
402 paragraph and an employer that employs or appoints such person
403 are jointly and severally liable for reimbursement of any
404 retirement benefits paid to the retirement trust fund from which
405 the benefits were paid, including the Florida Retirement System
406 Trust Fund and the Public Employee Optional Retirement Program

20121570e1

407 Trust Fund, as appropriate. The employer must have a written
408 statement from the employee that he or she is not retired from a
409 state-administered retirement system. Retirement benefits shall
410 remain suspended until repayment is made. Benefits suspended
411 beyond the end of the retiree's 6-month reemployment limitation
412 period shall apply toward the repayment of benefits received in
413 violation of this paragraph.

414 (d) This subsection applies to retirees, as defined in s.
415 121.4501(2) and except as provided in paragraph (f), of the
416 Florida Retirement System Investment Plan, subject to the
417 following conditions:

418 1. A retiree may not be reemployed with an employer
419 participating in the Florida Retirement System until such person
420 has been retired for 6 calendar months.

421 2. A retiree employed in violation of this subsection and
422 an employer that employs or appoints such person are jointly and
423 severally liable for reimbursement of any benefits paid to the
424 retirement trust fund from which the benefits were paid. The
425 employer must have a written statement from the retiree that he
426 or she is not retired from a state-administered retirement
427 system.

428 (e) The limitations of this subsection apply to
429 reemployment in any capacity irrespective of the category of
430 funds from which the person is compensated, except as provided
431 in paragraph (f).

432 (f) Effective July 1, 2012, a retired justice or retired
433 judge who has reached his or her normal retirement age or date
434 and consents to temporary employment as a senior judge in any
435 court, as assigned by the Chief Justice of the Supreme Court in

20121570e1

436 accordance with s. 2, Art. V of the State Constitution, is not
437 subject to paragraph (c), paragraph (d), or paragraph (e).

438 Section 5. Paragraph (a) of subsection (1) of section
439 121.591, Florida Statutes, is amended to read:

440 121.591 Payment of benefits.—Benefits may not be paid under
441 the Florida Retirement System Investment Plan unless the member
442 has terminated employment as provided in s. 121.021(39)(a) or is
443 deceased and a proper application has been filed as prescribed
444 by the state board or the department. Before termination of
445 employment, benefits, including employee contributions, are not
446 payable under the investment plan for employee hardships,
447 unforeseeable emergencies, loans, medical expenses, educational
448 expenses, purchase of a principal residence, payments necessary
449 to prevent eviction or foreclosure on an employee's principal
450 residence, or any other reason prior to termination from all
451 employment relationships with participating employers. The state
452 board or department, as appropriate, may cancel an application
453 for retirement benefits if the member or beneficiary fails to
454 timely provide the information and documents required by this
455 chapter and the rules of the state board and department. In
456 accordance with their respective responsibilities, the state
457 board and the department shall adopt rules establishing
458 procedures for application for retirement benefits and for the
459 cancellation of such application if the required information or
460 documents are not received. The state board and the department,
461 as appropriate, are authorized to cash out a de minimis account
462 of a member who has been terminated from Florida Retirement
463 System covered employment for a minimum of 6 calendar months. A
464 de minimis account is an account containing employer and

20121570e1

465 employee contributions and accumulated earnings of not more than
466 \$5,000 made under the provisions of this chapter. Such cash-out
467 must be a complete lump-sum liquidation of the account balance,
468 subject to the provisions of the Internal Revenue Code, or a
469 lump-sum direct rollover distribution paid directly to the
470 custodian of an eligible retirement plan, as defined by the
471 Internal Revenue Code, on behalf of the member. Any nonvested
472 accumulations and associated service credit, including amounts
473 transferred to the suspense account of the Florida Retirement
474 System Investment Plan Trust Fund authorized under s.
475 121.4501(6), shall be forfeited upon payment of any vested
476 benefit to a member or beneficiary, except for de minimis
477 distributions or minimum required distributions as provided
478 under this section. If any financial instrument issued for the
479 payment of retirement benefits under this section is not
480 presented for payment within 180 days after the last day of the
481 month in which it was originally issued, the third-party
482 administrator or other duly authorized agent of the state board
483 shall cancel the instrument and credit the amount of the
484 instrument to the suspense account of the Florida Retirement
485 System Investment Plan Trust Fund authorized under s.
486 121.4501(6). Any amounts transferred to the suspense account are
487 payable upon a proper application, not to include earnings
488 thereon, as provided in this section, within 10 years after the
489 last day of the month in which the instrument was originally
490 issued, after which time such amounts and any earnings
491 attributable to employer contributions shall be forfeited. Any
492 forfeited amounts are assets of the trust fund and are not
493 subject to chapter 717.

20121570e1

- 494 (1) NORMAL BENEFITS.—Under the investment plan:
- 495 (a) Benefits in the form of vested accumulations as
- 496 described in s. 121.4501(6) are payable under this subsection in
- 497 accordance with the following terms and conditions:
- 498 1. Benefits are payable only to a member, an alternate
- 499 payee of a qualified domestic relations order, or a beneficiary.
- 500 2. Benefits shall be paid by the third-party administrator
- 501 or designated approved providers in accordance with the law, the
- 502 contracts, and any applicable board rule or policy.
- 503 3. The member must be terminated from all employment with
- 504 all Florida Retirement System employers, as provided in s.
- 505 121.021(39).
- 506 4. Benefit payments may not be made until the member has
- 507 been terminated for 3 calendar months, except that the state
- 508 board may authorize by rule for the distribution of up to 10
- 509 percent of the member's account after being terminated for 1
- 510 calendar month if the member has reached the normal retirement
- 511 date as defined in s. 121.021. Effective July 1, 2012, a retired
- 512 justice or retired judge who has consented to temporary
- 513 employment as a senior judge in any court pursuant to s. 25.073
- 514 may receive a regular distribution of his or her account as
- 515 provided in this paragraph after providing proof of termination
- 516 from his or her regularly established position.
- 517 5. If a member or former member of the Florida Retirement
- 518 System receives an invalid distribution, such person must either
- 519 repay the full amount within 90 days after receipt of final
- 520 notification by the state board or the third-party administrator
- 521 that the distribution was invalid, or, in lieu of repayment, the
- 522 member must terminate employment from all participating

20121570e1

523 employers. If such person fails to repay the full invalid
524 distribution within 90 days after receipt of final notification,
525 the person may be deemed retired from the investment plan by the
526 state board and is subject to s. 121.122. If such person is
527 deemed retired, any joint and several liability set out in s.
528 121.091(9)(d)2. is void, and the state board, the department, or
529 the employing agency is not liable for gains on payroll
530 contributions that have not been deposited to the person's
531 account in the investment plan, pending resolution of the
532 invalid distribution. The member or former member who has been
533 deemed retired or who has been determined by the state board to
534 have taken an invalid distribution may appeal the agency
535 decision through the complaint process as provided under s.
536 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
537 distribution" means any distribution from an account in the
538 investment plan which is taken in violation of this section, s.
539 121.091(9), or s. 121.4501.

540 Section 6. (1) Effective July 1, 2012, in order to fund the
541 benefit changes provided in this act, the required employer
542 contribution rates of the Florida Retirement System established
543 in s. 121.71(4), Florida Statutes, shall be adjusted as follows:

544 (a) Elected Officers' Class for Justices and Judges shall
545 be increased by 0.45 percentage points; and

546 (b) Deferred Retirement Option Program shall be increased
547 by 0.01 percentage points.

548 (2) Effective July 1, 2012, in order to fund the benefit
549 changes provided in this act, the required employer contribution
550 rates for the unfunded actuarial liability of the Florida
551 Retirement System established in s. 121.71(5), Florida Statutes,

20121570e1

552 for the Elected Officers' Class for Justices and Judges shall be
553 increased by 0.91 percentage points.

554 (3) The adjustments provided in subsections (1) and (2)
555 shall be in addition to all other changes to such contribution
556 rates which may be enacted into law to take effect on July 1,
557 2012, and July 1, 2013. The Division of Statutory Revision is
558 requested to adjust accordingly the contribution rates provided
559 in s. 121.71, Florida Statutes.

560 Section 7. The Legislature finds that a proper and
561 legitimate state purpose is served when employees and retirees
562 of the state and its political subdivisions, and the dependents,
563 survivors, and beneficiaries of such employees and retirees, are
564 extended the basic protections afforded by governmental
565 retirement systems that provide fair and adequate benefits and
566 that are managed, administered, and funded in an actuarially
567 sound manner as required by s. 14, Article X of the State
568 Constitution and part VII of chapter 112, Florida Statutes.
569 Therefore, the Legislature determines and declares that this act
570 fulfills an important state interest.

571 Section 8. Section 1 and sections 3 through 7 of this act
572 shall take effect only if:

573 (1) The Legislature appropriates during the 2012
574 Legislative Session the sum of at least \$1.6 million from the
575 General Revenue Fund on a recurring basis to the judicial branch
576 in order to fund the increased employer contributions associated
577 with the costs of the retirement benefits granted in this act;
578 and

579 (2) The State Courts Administrator certifies to the
580 President of the Senate and the Speaker of the House of

20121570e1

581 Representatives that the appropriation was made and that the
582 appropriation was not vetoed by the Governor.

583 Section 9. Except as otherwise expressly provided in this
584 act and except for this section, which shall take effect upon
585 this act becoming a law, this act shall take effect July 1,
586 2012.