

By Senator Diaz de la Portilla

40-00586-15

2015696__

1 A bill to be entitled
2 An act relating to reemployment after retirement;
3 amending s. 121.091, F.S.; authorizing Florida
4 Retirement System members to be reemployed after
5 retirement under certain conditions; amending s.
6 121.591, F.S.; conforming provisions to changes made
7 by the act; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Subsection (9) of section 121.091, Florida
12 Statutes, is amended to read:

13 121.091 Benefits payable under the system.—Benefits may not
14 be paid under this section unless the member has terminated
15 employment as provided in s. 121.021(39) (a) or begun
16 participation in the Deferred Retirement Option Program as
17 provided in subsection (13), and a proper application has been
18 filed in the manner prescribed by the department. The department
19 may cancel an application for retirement benefits when the
20 member or beneficiary fails to timely provide the information
21 and documents required by this chapter and the department's
22 rules. The department shall adopt rules establishing procedures
23 for application for retirement benefits and for the cancellation
24 of such application when the required information or documents
25 are not received.

26 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

27 (a) A ~~Any~~ person who is retired under this chapter, except
28 under the disability retirement provisions of subsection (4),
29 may be employed by an employer that does not participate in a

40-00586-15

2015696__

30 state-administered retirement system and receive compensation
31 from that employment without limiting or restricting in any way
32 the retirement benefits payable to that person.

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

49 ~~1. A retiree who violates such reemployment limitation~~
50 ~~before completion of the 12-month limitation period must give~~
51 ~~timely notice of this fact in writing to the employer and to the~~
52 ~~Division of Retirement or the state board and shall have his or~~
53 ~~her retirement benefits suspended for the months employed or the~~
54 ~~balance of the 12-month limitation period as required in sub-~~
55 ~~paragraphs b. and c. A retiree employed in violation of this~~
56 ~~paragraph and an employer who employs or appoints such person~~
57 ~~are jointly and severally liable for reimbursement to the~~
58 ~~retirement trust fund, including the Florida Retirement System~~

40-00586-15

2015696__

59 ~~Trust Fund and the Public Employee Optional Retirement Program~~
60 ~~Trust Fund, from which the benefits were paid. The employer must~~
61 ~~have a written statement from the retiree that he or she is not~~
62 ~~retired from a state administered retirement system. Retirement~~
63 ~~benefits shall remain suspended until repayment has been made.~~
64 ~~Benefits suspended beyond the reemployment limitation shall~~
65 ~~apply toward repayment of benefits received in violation of the~~
66 ~~reemployment limitation.~~

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

80 ~~b. A Florida College System institution board of trustees~~
81 ~~may reemploy a retiree as an adjunct instructor or as a~~
82 ~~participant in a phased retirement program within the Florida~~
83 ~~College System, after he or she has been retired for 1 calendar~~
84 ~~month. A member who is reemployed within 1 calendar month after~~
85 ~~retirement shall void his or her application for retirement~~
86 ~~benefits. Boards of trustees reemploying such instructors are~~
87 ~~subject to the retirement contribution required in subparagraph~~

40-00586-15

2015696__

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

110 ~~e. The State University System may reemploy a retiree as an~~
111 ~~adjunct faculty member or as a participant in a phased~~
112 ~~retirement program within the State University System after the~~
113 ~~retiree has been retired for 1 calendar month. A member who is~~
114 ~~reemployed within 1 calendar month after retirement shall void~~
115 ~~his or her application for retirement benefits. The State~~
116 ~~University System is subject to the retired contribution~~

40-00586-15

2015696__

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

140 ~~d. The Board of Trustees of the Florida School for the Deaf~~
141 ~~and the Blind may reemploy a retiree as a substitute teacher,~~
142 ~~substitute residential instructor, or substitute nurse on a~~
143 ~~noncontractual basis after he or she has been retired for 1~~
144 ~~calendar month. Any member who is reemployed within 1 calendar~~
145 ~~month after retirement shall void his or her application for~~

40-00586-15

2015696__

146 ~~retirement benefits. The Board of Trustees of the Florida School~~
147 ~~for the Deaf and the Blind reemploying such teachers,~~
148 ~~residential instructors, or nurses is subject to the retirement~~
149 ~~contribution required by subparagraph 2.~~

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

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

173 ~~1.2.~~ The employment of a retiree or DROP participant of a
174 state-administered retirement system does not affect the average

40-00586-15

2015696__

175 final compensation or years of creditable service of the retiree
176 or DROP participant. Before July 1, 1991, upon employment of any
177 person, other than an elected officer as provided in s. 121.053,
178 who is retired under a state-administered retirement program,
179 the employer shall pay retirement contributions in an amount
180 equal to the unfunded actuarial liability portion of the
181 employer contribution which would be required for regular
182 members of the Florida Retirement System. Effective July 1,
183 1991, contributions shall be made as provided in s. 121.122 for
184 retirees who have renewed membership or, as provided in
185 subsection (13), for DROP participants.

186 2.3. Any person who is holding an elective public office
187 which is covered by the Florida Retirement System and who is
188 concurrently employed in nonelected covered employment may elect
189 to retire while continuing employment in the elective public
190 office if he or she terminates his or her nonelected covered
191 employment. Such person shall receive his or her retirement
192 benefits in addition to the compensation of the elective office
193 ~~without regard to the time limitations otherwise provided in~~
194 ~~this subsection.~~ A person who seeks to exercise the provisions
195 of this subparagraph as they existed before May 3, 1984, may not
196 be deemed to be retired under those provisions, unless such
197 person is eligible to retire under this subparagraph, as amended
198 by chapter 84-11, Laws of Florida.

199 ~~(c) Any person whose retirement is effective on or after~~
200 ~~July 1, 2010, or whose participation in the Deferred Retirement~~
201 ~~Option Program terminates on or after July 1, 2010, who is~~
202 ~~retired under this chapter, except under the disability~~
203 ~~retirement provisions of subsection (4) or as provided in s.~~

40-00586-15

2015696__

204 ~~121.053, may be reemployed by an employer that participates in a~~
205 ~~state-administered retirement system and receive retirement~~
206 ~~benefits and compensation from that employer. However, a person~~
207 ~~may not be reemployed by an employer participating in the~~
208 ~~Florida Retirement System before meeting the definition of~~
209 ~~termination in s. 121.021 and may not receive both a salary from~~
210 ~~the employer and retirement benefits for 6 calendar months after~~
211 ~~meeting the definition of termination. However, A DROP~~
212 ~~participant shall continue employment and receive a salary~~
213 ~~during the period of participation in the Deferred Retirement~~
214 ~~Option Program, as provided in subsection (13).~~

215 ~~1. The reemployed retiree may not renew membership in the~~
216 ~~Florida Retirement System.~~

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

222 ~~3. A retiree initially reemployed in violation of this~~
223 ~~paragraph and an employer that employs or appoints such person~~
224 ~~are jointly and severally liable for reimbursement of any~~
225 ~~retirement benefits paid to the retirement trust fund from which~~
226 ~~the benefits were paid, including the Florida Retirement System~~
227 ~~Trust Fund and the Public Employee Optional Retirement Program~~
228 ~~Trust Fund, as appropriate. The employer must have a written~~
229 ~~statement from the employee that he or she is not retired from a~~
230 ~~state-administered retirement system. Retirement benefits shall~~
231 ~~remain suspended until repayment is made. Benefits suspended~~
232 ~~beyond the end of the retiree's 6-month reemployment limitation~~

40-00586-15

2015696__

233 ~~period shall apply toward the repayment of benefits received in~~
234 ~~violation of this paragraph.~~

235 ~~(d) This subsection applies to retirees, as defined in s.~~
236 ~~121.4501(2), of the Florida Retirement System Investment Plan,~~
237 ~~subject to the following conditions:~~

238 ~~1. A retiree may not be reemployed with an employer~~
239 ~~participating in the Florida Retirement System until such person~~
240 ~~has been retired for 6 calendar months.~~

241 ~~2. A retiree employed in violation of this subsection and~~
242 ~~an employer that employs or appoints such person are jointly and~~
243 ~~severally liable for reimbursement of any benefits paid to the~~
244 ~~retirement trust fund from which the benefits were paid. The~~
245 ~~employer must have a written statement from the retiree that he~~
246 ~~or she is not retired from a state-administered retirement~~
247 ~~system.~~

248 ~~(c)(e)~~ (c) The limitations of this subsection apply to
249 reemployment in any capacity irrespective of the category of
250 funds from which the person is compensated.

251 Section 2. Paragraph (a) of subsection (1) of section
252 121.591, Florida Statutes, is amended to read:

253 121.591 Payment of benefits.—Benefits may not be paid under
254 the Florida Retirement System Investment Plan unless the member
255 has terminated employment as provided in s. 121.021(39)(a) or is
256 deceased and a proper application has been filed as prescribed
257 by the state board or the department. Benefits, including
258 employee contributions, are not payable under the investment
259 plan for employee hardships, unforeseeable emergencies, loans,
260 medical expenses, educational expenses, purchase of a principal
261 residence, payments necessary to prevent eviction or foreclosure

40-00586-15

2015696__

262 on an employee's principal residence, or any other reason except
263 a requested distribution for retirement, a mandatory de minimis
264 distribution authorized by the administrator, or a required
265 minimum distribution provided pursuant to the Internal Revenue
266 Code. The state board or department, as appropriate, may cancel
267 an application for retirement benefits if the member or
268 beneficiary fails to timely provide the information and
269 documents required by this chapter and the rules of the state
270 board and department. In accordance with their respective
271 responsibilities, the state board and the department shall adopt
272 rules establishing procedures for application for retirement
273 benefits and for the cancellation of such application if the
274 required information or documents are not received. The state
275 board and the department, as appropriate, are authorized to cash
276 out a de minimis account of a member who has been terminated
277 from Florida Retirement System covered employment for a minimum
278 of 6 calendar months. A de minimis account is an account
279 containing employer and employee contributions and accumulated
280 earnings of not more than \$5,000 made under the provisions of
281 this chapter. Such cash-out must be a complete lump-sum
282 liquidation of the account balance, subject to the provisions of
283 the Internal Revenue Code, or a lump-sum direct rollover
284 distribution paid directly to the custodian of an eligible
285 retirement plan, as defined by the Internal Revenue Code, on
286 behalf of the member. Any nonvested accumulations and associated
287 service credit, including amounts transferred to the suspense
288 account of the Florida Retirement System Investment Plan Trust
289 Fund authorized under s. 121.4501(6), shall be forfeited upon
290 payment of any vested benefit to a member or beneficiary, except

40-00586-15

2015696__

291 for de minimis distributions or minimum required distributions
292 as provided under this section. If any financial instrument
293 issued for the payment of retirement benefits under this section
294 is not presented for payment within 180 days after the last day
295 of the month in which it was originally issued, the third-party
296 administrator or other duly authorized agent of the state board
297 shall cancel the instrument and credit the amount of the
298 instrument to the suspense account of the Florida Retirement
299 System Investment Plan Trust Fund authorized under s.
300 121.4501(6). Any amounts transferred to the suspense account are
301 payable upon a proper application, not to include earnings
302 thereon, as provided in this section, within 10 years after the
303 last day of the month in which the instrument was originally
304 issued, after which time such amounts and any earnings
305 attributable to employer contributions shall be forfeited. Any
306 forfeited amounts are assets of the trust fund and are not
307 subject to chapter 717.

308 (1) NORMAL BENEFITS.—Under the investment plan:

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

312 1. Benefits are payable only to a member, an alternate
313 payee of a qualified domestic relations order, or a beneficiary.

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

317 3. The member must be terminated from all employment with
318 all Florida Retirement System employers, as provided in s.
319 121.021(39).

40-00586-15

2015696__

320 4. Benefit payments may not be made until the member has
321 been terminated for 3 calendar months, except that the state
322 board may authorize by rule for the distribution of up to 10
323 percent of the member's account after being terminated for 1
324 calendar month if the member has reached the normal retirement
325 date as defined in s. 121.021.

326 5. If a member or former member of the Florida Retirement
327 System receives an invalid distribution, such person must either
328 repay the full amount within 90 days after receipt of final
329 notification by the state board or the third-party administrator
330 that the distribution was invalid, or, in lieu of repayment, the
331 member must terminate employment from all participating
332 employers. If such person fails to repay the full invalid
333 distribution within 90 days after receipt of final notification,
334 the person may be deemed retired from the investment plan by the
335 state board and is subject to s. 121.122. If such person is
336 deemed retired, ~~any joint and several liability set out in s.~~
337 ~~121.091(9)(d)2. is void, and~~ the state board, the department, or
338 the employing agency is not liable for gains on payroll
339 contributions that have not been deposited to the person's
340 account in the investment plan, pending resolution of the
341 invalid distribution. The member or former member who has been
342 deemed retired or who has been determined by the state board to
343 have taken an invalid distribution may appeal the agency
344 decision through the complaint process as provided under s.
345 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
346 distribution" means any distribution from an account in the
347 investment plan which is taken in violation of this section, s.
348 121.091(9), or s. 121.4501.

40-00586-15

2015696__

349

Section 3. This act shall take effect July 1, 2015.