

By the Committee on Judiciary; and Senator Bradley

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1 A bill to be entitled
2 An act relating to justices and judges; amending s.
3 121.021, F.S.; revising the applicability of the term
4 "termination"; amending s. 121.091, F.S.; providing
5 that a retired justice or retired judge is not subject
6 to certain restrictions on employment after retirement
7 otherwise applicable to retired employees; amending s.
8 121.591, F.S.; providing that a retired justice or
9 retired judge who returns to temporary employment as a
10 senior judge in any court may continue to receive a
11 distribution of his or her retirement account after
12 providing proof of termination from his or her
13 regularly established position; adjusting employer
14 contribution rates in order to fund changes made by
15 the act; providing a directive to the Division of Law
16 Revision and Information; providing findings of an
17 important state interest; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Subsection (39) of section 121.021, Florida
22 Statutes, is amended to read:

23 121.021 Definitions.—The following words and phrases as
24 used in this chapter have the respective meanings set forth
25 unless a different meaning is plainly required by the context:

26 (39) (a) "Termination" occurs, except as provided in
27 paragraph (b), when a member ceases all employment relationships
28 with participating employers, however:

29 1. For retirements effective before July 1, 2010, if a

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30 member is employed by any such employer within the next calendar
31 month, termination shall be deemed not to have occurred. A leave
32 of absence constitutes a continuation of the employment
33 relationship, except that a leave of absence without pay due to
34 disability may constitute termination if such member makes
35 application for and is approved for disability retirement in
36 accordance with s. 121.091(4). The department or state board may
37 require other evidence of termination as it deems necessary.

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

47 (b) "Termination" for a member electing to participate in
48 the Deferred Retirement Option Program occurs when the program
49 participant ceases all employment relationships with
50 participating employers in accordance with s. 121.091(13),
51 however:

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

57 2. For termination dates occurring on or after July 1,
58 2010, if the member becomes employed by any such employer within

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59 the next 6 calendar months, termination will be deemed not to
60 have occurred, except as provided in s. 121.091(13)(b)4.c. A
61 leave of absence constitutes a continuation of the employment
62 relationship.

63 (c) Effective July 1, 2011, "termination" for a member
64 receiving a refund of employee contributions occurs when a
65 member ceases all employment relationships with participating
66 employers for 3 calendar months. A leave of absence constitutes
67 a continuation of the employment relationship.

68 (d) Effective July 1, 2015, "termination" for a retired
69 justice or retired judge occurs when he or she has reached the
70 later of his or her normal retirement age or the age when vested
71 and has terminated all employment relationships with employers
72 under the Florida Retirement System for at least 1 calendar
73 month before returning to temporary employment as a senior judge
74 in any court, as assigned by the Chief Justice of the Supreme
75 Court in accordance with s. 2, Art. V of the State Constitution.

76 Section 2. Paragraphs (c), (d), and (e) of subsection (9)
77 of section 121.091, Florida Statutes, are amended, and paragraph
78 (f) is added to that subsection, to read:

79 121.091 Benefits payable under the system.—Benefits may not
80 be paid under this section unless the member has terminated
81 employment as provided in s. 121.021(39)(a) or begun
82 participation in the Deferred Retirement Option Program as
83 provided in subsection (13), and a proper application has been
84 filed in the manner prescribed by the department. The department
85 may cancel an application for retirement benefits when the
86 member or beneficiary fails to timely provide the information
87 and documents required by this chapter and the department's

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88 rules. The department shall adopt rules establishing procedures
89 for application for retirement benefits and for the cancellation
90 of such application when the required information or documents
91 are not received.

92 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

93 (c) Any person whose retirement is effective on or after
94 July 1, 2010, or whose participation in the Deferred Retirement
95 Option Program terminates on or after July 1, 2010, who is
96 retired under this chapter, except under the disability
97 retirement provisions of subsection (4) or as provided in s.
98 121.053, may be reemployed by an employer that participates in a
99 state-administered retirement system and receive retirement
100 benefits and compensation from that employer. However, a person
101 may not be reemployed by an employer participating in the
102 Florida Retirement System before meeting the definition of
103 termination in s. 121.021 and may not receive both a salary from
104 the employer and retirement benefits for 6 calendar months after
105 meeting the definition of termination, except as provided in
106 paragraph (f). However, a DROP participant shall continue
107 employment and receive a salary during the period of
108 participation in the Deferred Retirement Option Program, as
109 provided in subsection (13).

110 1. The reemployed retiree may not renew membership in the
111 Florida Retirement System.

112 2. The employer shall pay retirement contributions in an
113 amount equal to the unfunded actuarial liability portion of the
114 employer contribution that would be required for active members
115 of the Florida Retirement System in addition to the
116 contributions required by s. 121.76.

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117 3. A retiree initially reemployed in violation of this
118 paragraph and an employer that employs or appoints such person
119 are jointly and severally liable for reimbursement of any
120 retirement benefits paid to the retirement trust fund from which
121 the benefits were paid, including the Florida Retirement System
122 Trust Fund and the Public Employee Optional Retirement Program
123 Trust Fund, as appropriate. The employer must have a written
124 statement from the employee that he or she is not retired from a
125 state-administered retirement system. Retirement benefits shall
126 remain suspended until repayment is made. Benefits suspended
127 beyond the end of the retiree's 6-month reemployment limitation
128 period shall apply toward the repayment of benefits received in
129 violation of this paragraph.

130 (d) Except as provided in paragraph (f), this subsection
131 applies to retirees, as defined in s. 121.4501(2), of the
132 Florida Retirement System Investment Plan, subject to the
133 following conditions:

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

137 2. A retiree employed in violation of this subsection and
138 an employer that employs or appoints such person are jointly and
139 severally liable for reimbursement of any benefits paid to the
140 retirement trust fund from which the benefits were paid. The
141 employer must have a written statement from the retiree that he
142 or she is not retired from a state-administered retirement
143 system.

144 (e) The limitations of this subsection apply to
145 reemployment in any capacity irrespective of the category of

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146 funds from which the person is compensated, except as provided
147 in paragraph (f).

148 (f) Effective July 1, 2015, a retired justice or retired
149 judge who has reached the later of his or her normal retirement
150 age or the age when vested, who has terminated all employment
151 with employers participating under the Florida Retirement System
152 for at least 1 calendar month, and who subsequently returns to
153 temporary employment as a senior judge in any court, as assigned
154 by the Chief Justice of the Supreme Court in accordance with s.
155 2, Art. V of the State Constitution is not subject to paragraph
156 (c), paragraph (d), or paragraph (e) while reemployed as a
157 senior judge.

158 Section 3. Paragraph (a) of subsection (1) of section
159 121.591, Florida Statutes, is amended to read:

160 121.591 Payment of benefits.—Benefits may not be paid under
161 the Florida Retirement System Investment Plan unless the member
162 has terminated employment as provided in s. 121.021(39) (a) or is
163 deceased and a proper application has been filed as prescribed
164 by the state board or the department. Benefits, including
165 employee contributions, are not payable under the investment
166 plan for employee hardships, unforeseeable emergencies, loans,
167 medical expenses, educational expenses, purchase of a principal
168 residence, payments necessary to prevent eviction or foreclosure
169 on an employee's principal residence, or any other reason except
170 a requested distribution for retirement, a mandatory de minimis
171 distribution authorized by the administrator, or a required
172 minimum distribution provided pursuant to the Internal Revenue
173 Code. The state board or department, as appropriate, may cancel
174 an application for retirement benefits if the member or

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175 beneficiary fails to timely provide the information and
176 documents required by this chapter and the rules of the state
177 board and department. In accordance with their respective
178 responsibilities, the state board and the department shall adopt
179 rules establishing procedures for application for retirement
180 benefits and for the cancellation of such application if the
181 required information or documents are not received. The state
182 board and the department, as appropriate, are authorized to cash
183 out a de minimis account of a member who has been terminated
184 from Florida Retirement System covered employment for a minimum
185 of 6 calendar months. A de minimis account is an account
186 containing employer and employee contributions and accumulated
187 earnings of not more than \$5,000 made under the provisions of
188 this chapter. Such cash-out must be a complete lump-sum
189 liquidation of the account balance, subject to the provisions of
190 the Internal Revenue Code, or a lump-sum direct rollover
191 distribution paid directly to the custodian of an eligible
192 retirement plan, as defined by the Internal Revenue Code, on
193 behalf of the member. Any nonvested accumulations and associated
194 service credit, including amounts transferred to the suspense
195 account of the Florida Retirement System Investment Plan Trust
196 Fund authorized under s. 121.4501(6), shall be forfeited upon
197 payment of any vested benefit to a member or beneficiary, except
198 for de minimis distributions or minimum required distributions
199 as provided under this section. If any financial instrument
200 issued for the payment of retirement benefits under this section
201 is not presented for payment within 180 days after the last day
202 of the month in which it was originally issued, the third-party
203 administrator or other duly authorized agent of the state board

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204 shall cancel the instrument and credit the amount of the
205 instrument to the suspense account of the Florida Retirement
206 System Investment Plan Trust Fund authorized under s.
207 121.4501(6). Any amounts transferred to the suspense account are
208 payable upon a proper application, not to include earnings
209 thereon, as provided in this section, within 10 years after the
210 last day of the month in which the instrument was originally
211 issued, after which time such amounts and any earnings
212 attributable to employer contributions shall be forfeited. Any
213 forfeited amounts are assets of the trust fund and are not
214 subject to chapter 717.

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

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

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

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

224 3. The member must be terminated from all employment with
225 all Florida Retirement System employers, as provided in s.
226 121.021(39).

227 4. Benefit payments may not be made until the member has
228 been terminated for 3 calendar months, except that the state
229 board may authorize by rule for the distribution of up to 10
230 percent of the member's account after being terminated for 1
231 calendar month if the member has reached the normal retirement
232 date as defined in s. 121.021. Effective July 1, 2015, a retired

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233 justice or retired judge who returns to temporary employment as
234 a senior judge in any court pursuant to s. 2, Art. V of the
235 State Constitution and meets the criteria in the definition of
236 the term "termination" in s. 121.021(39)(d) may continue to
237 receive a distribution of his or her account as provided under
238 this paragraph after providing proof of assignment as a senior
239 judge.

240 5. If a member or former member of the Florida Retirement
241 System receives an invalid distribution, such person must either
242 repay the full amount within 90 days after receipt of final
243 notification by the state board or the third-party administrator
244 that the distribution was invalid, or, in lieu of repayment, the
245 member must terminate employment from all participating
246 employers. If such person fails to repay the full invalid
247 distribution within 90 days after receipt of final notification,
248 the person may be deemed retired from the investment plan by the
249 state board and is subject to s. 121.122. If such person is
250 deemed retired, any joint and several liability set out in s.
251 121.091(9)(d)2. is void, and the state board, the department, or
252 the employing agency is not liable for gains on payroll
253 contributions that have not been deposited to the person's
254 account in the investment plan, pending resolution of the
255 invalid distribution. The member or former member who has been
256 deemed retired or who has been determined by the state board to
257 have taken an invalid distribution may appeal the agency
258 decision through the complaint process as provided under s.
259 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
260 distribution" means any distribution from an account in the
261 investment plan which is taken in violation of this section, s.

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262 121.091(9), or s. 121.4501.

263 Section 4. (1) In order to fund the benefit changes
264 provided in this act, the required employer contribution rates
265 for members of the Florida Retirement System established in s.
266 121.71(4), Florida Statutes, must be adjusted as follows:

267 (a) The Elected Officers' Class for Justices and Judges
268 must be increased by 0.45 percentage point; and

269 (b) The Deferred Retirement Option Program must be
270 increased by 0.01 percentage point.

271 (2) In order to fund the benefit changes provided in this
272 act, the required employer contribution rate for the unfunded
273 actuarial liability of the Florida Retirement System established
274 in s. 121.71(5), Florida Statutes, for the Elected Officers'
275 Class for Justices and Judges is increased by 0.91 percentage
276 point.

277 (3) The adjustments provided in subsections (1) and (2)
278 shall be in addition to all other changes to such contribution
279 rates which may be enacted into law to take effect on July 1,
280 2015, and July 1, 2016. The Division of Law Revision and
281 Information is directed to adjust accordingly the contribution
282 rates provided in s. 121.71, Florida Statutes.

283 Section 5. (1) The Legislature finds that a proper and
284 legitimate state purpose is served if employees and retirees of
285 the state and its political subdivisions, and the dependents,
286 survivors, and beneficiaries of such employees and retirees, are
287 extended the basic protections afforded by governmental
288 retirement systems which provide fair and adequate benefits and
289 which are managed, administered, and funded in an actuarially
290 sound manner as required by s. 14, Article X of the State

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

294 (2) The Legislature further finds that the assignments of
295 former justices and judges to temporary employment as senior
296 judges in any court by the Chief Justice of the Supreme Court in
297 accordance with s. 2, Article V of the State Constitution assist
298 the state courts system in managing caseloads and providing
299 individuals and businesses with access to courts. Therefore, the
300 Legislature further determines and declares that this act
301 fulfills an important state interest by facilitating the ability
302 of justices and judges who retire under the Florida Retirement
303 System to return to temporary employment as senior judges in a
304 timely manner.

305 Section 6. This act shall take effect July 1, 2015.