



26 | deemed not to have occurred. A leave of absence constitutes a  
 27 | continuation of the employment relationship, except that a leave  
 28 | of absence without pay due to disability may constitute  
 29 | termination if such member makes application for and is approved  
 30 | for disability retirement in accordance with s. 121.091(4). ~~The~~  
 31 | ~~department or state board may require other evidence of~~  
 32 | ~~termination as it deems necessary.~~

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

43 |         (b) "Termination" for a member ending participation  
 44 | ~~electing to participate~~ in the Deferred Retirement Option  
 45 | Program occurs when the program participant ceases all  
 46 | employment relationships with, and ceases providing services to,  
 47 | all participating employers in accordance with s. 121.091(13),  
 48 | however:

49 |         1. For termination dates occurring before July 1, 2010, if  
 50 | a ~~the~~ member is employed by or provides services to, any ~~such~~

51 employer within the next calendar month, termination shall ~~will~~  
52 be deemed not to have occurred, except as provided in s.  
53 121.091(13)(b)4.c. A leave of absence constitutes ~~shall~~  
54 ~~constitute~~ a continuation of the employment relationship.

55 2. For termination dates occurring on or after July 1,  
56 2010, if a ~~the~~ member becomes employed by, or provides services  
57 to, any ~~such~~ employer within the next 6 calendar months,  
58 termination shall ~~will~~ be deemed not to have occurred, except as  
59 provided in s. 121.091(13)(b)4.c. A leave of absence constitutes  
60 a continuation of the employment relationship.

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

67  
68 All terminations must be a termination of employment as defined  
69 in 26 C.F.R. s. 1.409A-1(h)(1)(ii). Volunteer services do not  
70 constitute employment by, or provision of services to, an  
71 employer. The department or state board may require any evidence  
72 of termination necessary to determine compliance with this  
73 chapter or the rules promulgated thereunder.

74 (65) "Volunteer services" means services provided in  
75 accordance with any rules promulgated under s. 121.091(15).

76 Section 2. Paragraph (c) of subsection (4) of section  
 77 121.091, Florida Statutes, is amended, and subsection (15) is  
 78 added to that section, to read:

79 121.091 Benefits payable under the system.—Benefits may  
 80 not 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  
 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 (4) DISABILITY RETIREMENT BENEFIT.—

93 (c) Proof of disability.—The administrator, before  
 94 approving payment of any disability retirement benefit, shall  
 95 require proof that the member is totally and permanently  
 96 disabled as provided herein:

97 1. Such proof shall include the certification of the  
 98 member's total and permanent disability by two licensed  
 99 physicians of the state and such other evidence of disability as  
 100 the administrator may require, including reports from vocational

101 rehabilitation, evaluation, or testing specialists who have  
102 evaluated the applicant for employment. A member whose position  
103 with an employer requires that the member work full time outside  
104 this state in the United States may include certification by two  
105 licensed physicians of the state where the member works. A  
106 member who is receiving care at a federal Veterans Health  
107 Administration facility may include certification by two  
108 licensed physicians working at the facility.

109 2. It must be documented that:

110 a. The member's medical condition occurred or became  
111 symptomatic during the time the member was employed in an  
112 employee/employer relationship with his or her employer;

113 b. The member was totally and permanently disabled at the  
114 time he or she terminated covered employment; and

115 c. The member has not been employed with, or provided any  
116 services to, any other employer after such termination.

117 3. If the application is for in-line-of-duty disability,  
118 in addition to the requirements of subparagraph 2., it must be  
119 documented by competent medical evidence that the disability was  
120 caused by a job-related illness or accident which occurred while  
121 the member was in an employee/employer relationship with his or  
122 her employer.

123 4. The unavailability of an employment position that the  
124 member is physically and mentally capable of performing will not  
125 be considered as proof of total and permanent disability.

HB 1551

2022

126        (15) VOLUNTEER SERVICES.—The division may adopt rules  
127        establishing criteria for volunteer services that retirees may  
128        provide to an employer while still being deemed to have a  
129        termination as defined in s. 121.021(39). Employers may  
130        establish volunteer programs in accordance with these rules.

131        Section 3. This act shall take effect July 1, 2022.