

1 A bill to be entitled
 2 An act relating to the Florida Retirement System;
 3 amending s. 121.021, F.S.; revising and providing
 4 definitions; amending s. 121.091; requiring the
 5 Division of Retirement to adopt rules for the
 6 provision of volunteer services; authorizing employers
 7 to establish volunteer programs; providing an
 8 effective date.

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

11
 12 Section 1. Subsection (39) of section 121.021, Florida
 13 Statutes, is amended, and subsection (65) is added to that
 14 section, to read:

15 121.021 Definitions.—The following words and phrases as
 16 used in this chapter have the respective meanings set forth
 17 unless a different meaning is plainly required by the context:

18 (39) (a) "Termination" occurs, except as provided in
 19 paragraphs ~~paragraph~~ (b) and (c), when a member ceases all
 20 employment relationships with, and ceases providing services to,
 21 all participating employers, however:

22 1. For retirements effective before July 1, 2010, if a
 23 member is employed by, or provides services to, any ~~such~~
 24 employer within the next calendar month, termination shall be
 25 deemed not to have occurred. A leave of absence constitutes a

26 continuation of the employment relationship, except that a leave
 27 of absence without pay due to disability may constitute
 28 termination if such member makes application for and is approved
 29 for disability retirement in accordance with s. 121.091(4). ~~The~~
 30 ~~department or state board may require other evidence of~~
 31 ~~termination as it deems necessary.~~

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

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

48 1. For termination dates occurring before July 1, 2010, if
 49 a ~~the~~ member is employed by, or provides services to, any ~~such~~
 50 employer within the next calendar month, termination shall ~~will~~

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

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

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

66 |
 67 | All terminations must be a termination of employment as defined
 68 | in 26 C.F.R. s. 1.409A-1(h)(1)(ii). Volunteer services do not
 69 | constitute employment by, or provision of services to, an
 70 | employer. The department or state board may require any evidence
 71 | of termination necessary to determine compliance with this
 72 | chapter or the rules adopted thereunder.

73 | (65) "Volunteer services" means services provided in
 74 | accordance with any rules adopted under s. 121.091(15).

75 | Section 2. Paragraph (c) of subsection (4) of section

76 | 121.091, Florida Statutes, is amended, and subsection (15) is
 77 | added to that section, to read:

78 | 121.091 Benefits payable under the system.—Benefits may
 79 | not be paid under this section unless the member has terminated
 80 | employment as provided in s. 121.021(39) (a) or begun
 81 | participation in the Deferred Retirement Option Program as
 82 | provided in subsection (13), and a proper application has been
 83 | filed in the manner prescribed by the department. The department
 84 | may cancel an application for retirement benefits when the
 85 | member or beneficiary fails to timely provide the information
 86 | and documents required by this chapter and the department's
 87 | rules. The department shall adopt rules establishing procedures
 88 | for application for retirement benefits and for the cancellation
 89 | of such application when the required information or documents
 90 | are not received.

91 | (4) DISABILITY RETIREMENT BENEFIT.—

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

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

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

108 2. It must be documented that:

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

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

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

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

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

125 (15) VOLUNTEER SERVICES.—The division shall adopt rules

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

130 | Section 3. This act shall take effect July 1, 2023.