

By Senator Burton

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1 A bill to be entitled
2 An act relating to the Florida Retirement System;
3 amending s. 121.021, F.S.; revising the definition of
4 the term "termination"; defining the term "volunteer
5 services"; amending s. 121.091, F.S.; requiring the
6 Division of Retirement to adopt rules for the
7 provision of volunteer services by retirees;
8 authorizing employers to establish volunteer programs;
9 conforming a provision to changes made by the act;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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

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

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

24 1. For retirements effective before July 1, 2010, if a
25 member is employed by, or provides services to, any ~~such~~
26 employer within the next calendar month, termination shall be
27 deemed not to have occurred. A leave of absence constitutes a
28 continuation of the employment relationship, except that a leave
29 of absence without pay due to disability may constitute

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30 termination if such member makes application for and is approved
31 for disability retirement in accordance with s. 121.091(4). ~~The~~
32 ~~department or state board may require other evidence of~~
33 ~~termination as it deems necessary.~~

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

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

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

56 2. For termination dates occurring on or after July 1,
57 2010, if ~~a the~~ member becomes employed by, or provides services
58 to, any ~~such~~ employer within the next 6 calendar months,

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

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

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

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

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

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

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

93 (4) DISABILITY RETIREMENT BENEFIT.—

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

98 1. Such proof shall include the certification of the
99 member's total and permanent disability by two licensed
100 physicians of the state and such other evidence of disability as
101 the administrator may require, including reports from vocational
102 rehabilitation, evaluation, or testing specialists who have
103 evaluated the applicant for employment. A member whose position
104 with an employer requires that the member work full time outside
105 this state in the United States may include certification by two
106 licensed physicians of the state where the member works. A
107 member who is receiving care at a federal Veterans Health
108 Administration facility may include certification by two
109 licensed physicians working at the facility.

110 2. It must be documented that:

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

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

116 c. The member has not been employed with, or provided any

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117 services to, any other employer after such termination.

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

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

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

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