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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2015	.	
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The Committee on Governmental Oversight and Accountability  
(Latvala) recommended the following:

**Senate Substitute for Amendment (851236) (with title  
amendment)**

Delete lines 68 - 304  
and insert:

(d) Effective July 1, 2015, and notwithstanding paragraphs  
(a) and (b), which void a termination if a member does not cease  
all employment relationships with participating employers for at  
least 6 calendar months, the termination of a retired justice or  
retired judge is not void if he or she:



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- 11       1. Has reached the later of his or her normal retirement  
12 age or the age at which he or she is vested;  
13       2. Has terminated all employment relationships with  
14 employers under the Florida Retirement System for at least 3  
15 calendar months after retirement; and  
16       3. Returns to temporary employment only as a senior judge  
17 in any court, as assigned by the Chief Justice of the Supreme  
18 Court in accordance with s. 2, Art. V of the State Constitution,  
19 no earlier than 4 calendar months after retirement.

20  
21 This paragraph does not apply if a retired justice or retired  
22 judge is employed for any other purpose by an employer  
23 participating in the Florida Retirement System within 6 calendar  
24 months of termination.

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

28       121.091 Benefits payable under the system.—Benefits may not  
29 be paid under this section unless the member has terminated  
30 employment as provided in s. 121.021(39)(a) or begun  
31 participation in the Deferred Retirement Option Program as  
32 provided in subsection (13), and a proper application has been  
33 filed in the manner prescribed by the department. The department  
34 may cancel an application for retirement benefits when the  
35 member or beneficiary fails to timely provide the information  
36 and documents required by this chapter and the department's  
37 rules. The department shall adopt rules establishing procedures  
38 for application for retirement benefits and for the cancellation  
39 of such application when the required information or documents



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40 are not received.

41 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

42 (c) Any person whose retirement is effective on or after  
43 July 1, 2010, or whose participation in the Deferred Retirement  
44 Option Program terminates on or after July 1, 2010, who is  
45 retired under this chapter, except under the disability  
46 retirement provisions of subsection (4) or as provided in s.  
47 121.053, may be reemployed by an employer that participates in a  
48 state-administered retirement system and receive retirement  
49 benefits and compensation from that employer. However, a person  
50 may not be reemployed by an employer participating in the  
51 Florida Retirement System before meeting the definition of  
52 termination in s. 121.021 and may not receive both a salary from  
53 the employer and retirement benefits for 6 calendar months after  
54 meeting the definition of termination, except as provided in  
55 paragraph (f). However, a DROP participant shall continue  
56 employment and receive a salary during the period of  
57 participation in the Deferred Retirement Option Program, as  
58 provided in subsection (13).

59 1. The reemployed retiree may not renew membership in the  
60 Florida Retirement System.

61 2. The employer shall pay retirement contributions in an  
62 amount equal to the unfunded actuarial liability portion of the  
63 employer contribution that would be required for active members  
64 of the Florida Retirement System in addition to the  
65 contributions required by s. 121.76.

66 3. A retiree initially reemployed in violation of this  
67 paragraph and an employer that employs or appoints such person  
68 are jointly and severally liable for reimbursement of any



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69 retirement benefits paid to the retirement trust fund from which  
70 the benefits were paid, including the Florida Retirement System  
71 Trust Fund and the Public Employee Optional Retirement Program  
72 Trust Fund, as appropriate. The employer must have a written  
73 statement from the employee that he or she is not retired from a  
74 state-administered retirement system. Retirement benefits shall  
75 remain suspended until repayment is made. Benefits suspended  
76 beyond the end of the retiree's 6-month reemployment limitation  
77 period shall apply toward the repayment of benefits received in  
78 violation of this paragraph.

79 (d) Except as provided in paragraph (f), this subsection  
80 applies to retirees, as defined in s. 121.4501(2), of the  
81 Florida Retirement System Investment Plan, subject to the  
82 following conditions:

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

86 2. A retiree employed in violation of this subsection and  
87 an employer that employs or appoints such person are jointly and  
88 severally liable for reimbursement of any benefits paid to the  
89 retirement trust fund from which the benefits were paid. The  
90 employer must have a written statement from the retiree that he  
91 or she is not retired from a state-administered retirement  
92 system.

93 (e) The limitations of this subsection apply to  
94 reemployment in any capacity irrespective of the category of  
95 funds from which the person is compensated, except as provided  
96 in paragraph (f).

97 (f) Effective July 1, 2015, a retired justice or retired



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98 judge who has reached the later of his or her normal retirement  
99 age or the age at which he or she is vested, who has terminated  
100 all employment with employers participating under the Florida  
101 Retirement System for at least 3 calendar months, and who  
102 subsequently returns to temporary employment only as a senior  
103 judge in any court, as assigned by the Chief Justice of the  
104 Supreme Court in accordance with s. 2, Art. V of the State  
105 Constitution, is not subject to paragraph (c), paragraph (d), or  
106 paragraph (e) while reemployed solely as a senior judge. This  
107 paragraph does not apply if the retired justice or retired judge  
108 is employed for any other purpose by an employer participating  
109 in the Florida Retirement System within 12 calendar months of  
110 termination.

111 Section 3. (1) The State Board of Administration and the  
112 Department of Management Services shall request, as soon as  
113 practicable, a determination letter and private letter ruling  
114 from the Internal Revenue Service. If the Internal Revenue  
115 Service refuses to act upon a request for a private letter  
116 ruling, a legal opinion from a qualified tax attorney or firm  
117 may be substituted for such private letter ruling.

118 (2) If the state board or the department receives  
119 notification from the Internal Revenue Service that this act or  
120 any portion of this act will cause the Florida Retirement  
121 System, or a portion thereof, to be disqualified for tax  
122 purposes under the Internal Revenue Code, the portion that will  
123 cause the disqualification does not apply. Upon receipt of such  
124 notice, the state board and the department shall notify the  
125 presiding officers of the Legislature.

126 Section 4. (1) In order to fund the benefit changes



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127 provided in this act, the required employer contribution rates  
128 for members of the Florida Retirement System established in s.  
129 121.71(4), Florida Statutes, must be adjusted as follows:

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

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

134 (2) In order to fund the benefit changes provided in this  
135 act, the required employer contribution rate for the unfunded  
136 actuarial liability of the Florida Retirement System established  
137 in s. 121.71(5), Florida Statutes, for the Elected Officers'  
138 Class for Justices and Judges is increased by 0.91 percentage  
139 point.

140 (3) The adjustments provided in subsections (1) and (2)  
141 shall be in addition to all other changes to such contribution  
142 rates which may be enacted into law to take effect on July 1,  
143 2015, and July 1, 2016. The Division of Law Revision and  
144 Information is directed to adjust accordingly the contribution  
145 rates provided in s. 121.71, Florida Statutes.

146 Section 5. (1) The Legislature finds that a proper and  
147 legitimate state purpose is served if employees and retirees of  
148 the state and its political subdivisions, and the dependents,  
149 survivors, and beneficiaries of such employees and retirees, are  
150 extended the basic protections afforded by governmental  
151 retirement systems which provide fair and adequate benefits and  
152 which are managed, administered, and funded in an actuarially  
153 sound manner as required by s. 14, Article X of the State  
154 Constitution and part VII of chapter 112, Florida Statutes.  
155 Therefore, the Legislature determines and declares that this act



156 fulfills an important state interest.  
157 (2) The Legislature further finds that the assignments of  
158 former justices and judges to temporary employment as senior  
159 judges in any court by the Chief Justice of the Supreme Court in  
160 accordance with s. 2, Article V of the State Constitution assist  
161 the state courts system in managing caseloads and providing  
162 individuals and businesses with access to courts. Therefore, the  
163 Legislature further determines and declares that this act  
164 fulfills an important state interest by facilitating the ability  
165 of justices and judges who retire under the Florida Retirement  
166 System in a bona fide termination to return to temporary  
167 employment as senior judges in a timely manner.

168  
169 ===== T I T L E A M E N D M E N T =====

170 And the title is amended as follows:

171 Delete lines 7 - 13

172 and insert:

173 otherwise applicable to retired employees; requiring  
174 the State Board of Administration and the Department  
175 of Management Services to request a determination  
176 letter and private letter ruling from the Internal  
177 Revenue Service; adjusting employer