



851236

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/31/2015	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 68 - 304

and insert:

(d) Effective July 1, 2015, "termination" for a retired justice or retired judge who returns to temporary employment for compensation as a senior judge in any court, as assigned by the Chief Justice of the Supreme Court in accordance with s. 2, Art. V of the State Constitution, occurs when he or she:

1. Has reached the later of his or her normal retirement



851236

11 age or the age when vested; and

12 2. Has terminated all employment relationships with
13 employers under the Florida Retirement System for at least 3
14 calendar months before applying for and returning to such
15 temporary employment.

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

19 121.091 Benefits payable under the system.—Benefits may not
20 be paid under this section unless the member has terminated
21 employment as provided in s. 121.021(39) (a) or begun
22 participation in the Deferred Retirement Option Program as
23 provided in subsection (13), and a proper application has been
24 filed in the manner prescribed by the department. The department
25 may cancel an application for retirement benefits when the
26 member or beneficiary fails to timely provide the information
27 and documents required by this chapter and the department's
28 rules. The department shall adopt rules establishing procedures
29 for application for retirement benefits and for the cancellation
30 of such application when the required information or documents
31 are not received.

32 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

33 (c) Any person whose retirement is effective on or after
34 July 1, 2010, or whose participation in the Deferred Retirement
35 Option Program terminates on or after July 1, 2010, who is
36 retired under this chapter, except under the disability
37 retirement provisions of subsection (4) or as provided in s.
38 121.053, may be reemployed by an employer that participates in a
39 state-administered retirement system and receive retirement



851236

40 benefits and compensation from that employer. However, a person
41 may not be reemployed by an employer participating in the
42 Florida Retirement System before meeting the definition of
43 termination in s. 121.021 and may not receive both a salary from
44 the employer and retirement benefits for 6 calendar months after
45 meeting the definition of termination, except as provided in
46 paragraph (f). However, a DROP participant shall continue
47 employment and receive a salary during the period of
48 participation in the Deferred Retirement Option Program, as
49 provided in subsection (13).

50 1. The reemployed retiree may not renew membership in the
51 Florida Retirement System.

52 2. The employer shall pay retirement contributions in an
53 amount equal to the unfunded actuarial liability portion of the
54 employer contribution that would be required for active members
55 of the Florida Retirement System in addition to the
56 contributions required by s. 121.76.

57 3. A retiree initially reemployed in violation of this
58 paragraph and an employer that employs or appoints such person
59 are jointly and severally liable for reimbursement of any
60 retirement benefits paid to the retirement trust fund from which
61 the benefits were paid, including the Florida Retirement System
62 Trust Fund and the Public Employee Optional Retirement Program
63 Trust Fund, as appropriate. The employer must have a written
64 statement from the employee that he or she is not retired from a
65 state-administered retirement system. Retirement benefits shall
66 remain suspended until repayment is made. Benefits suspended
67 beyond the end of the retiree's 6-month reemployment limitation
68 period shall apply toward the repayment of benefits received in



851236

69 violation of this paragraph.

70 (d) Except as provided in paragraph (f), this subsection
71 applies to retirees, as defined in s. 121.4501(2), of the
72 Florida Retirement System Investment Plan, subject to the
73 following conditions:

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

77 2. A retiree employed in violation of this subsection and
78 an employer that employs or appoints such person are jointly and
79 severally liable for reimbursement of any benefits paid to the
80 retirement trust fund from which the benefits were paid. The
81 employer must have a written statement from the retiree that he
82 or she is not retired from a state-administered retirement
83 system.

84 (e) The limitations of this subsection apply to
85 reemployment in any capacity irrespective of the category of
86 funds from which the person is compensated, except as provided
87 in paragraph (f).

88 (f) Effective July 1, 2015, a retired justice or retired
89 judge who has reached the later of his or her normal retirement
90 age or the age when vested, who has terminated all employment
91 with employers participating under the Florida Retirement System
92 for at least 3 calendar months, and who subsequently applies for
93 and returns to temporary employment for compensation as a senior
94 judge in any court, as assigned by the Chief Justice of the
95 Supreme Court in accordance with s. 2, Art. V of the State
96 Constitution, is not subject to paragraph (c), paragraph (d), or
97 paragraph (e) while reemployed as a senior judge.



851236

98 Section 3. Paragraph (a) of subsection (1) of section
99 121.591, Florida Statutes, is amended to read:

100 121.591 Payment of benefits.—Benefits may not be paid under
101 the Florida Retirement System Investment Plan unless the member
102 has terminated employment as provided in s. 121.021(39) (a) or is
103 deceased and a proper application has been filed as prescribed
104 by the state board or the department. Benefits, including
105 employee contributions, are not payable under the investment
106 plan for employee hardships, unforeseeable emergencies, loans,
107 medical expenses, educational expenses, purchase of a principal
108 residence, payments necessary to prevent eviction or foreclosure
109 on an employee's principal residence, or any other reason except
110 a requested distribution for retirement, a mandatory de minimis
111 distribution authorized by the administrator, or a required
112 minimum distribution provided pursuant to the Internal Revenue
113 Code. The state board or department, as appropriate, may cancel
114 an application for retirement benefits if the member or
115 beneficiary fails to timely provide the information and
116 documents required by this chapter and the rules of the state
117 board and department. In accordance with their respective
118 responsibilities, the state board and the department shall adopt
119 rules establishing procedures for application for retirement
120 benefits and for the cancellation of such application if the
121 required information or documents are not received. The state
122 board and the department, as appropriate, are authorized to cash
123 out a de minimis account of a member who has been terminated
124 from Florida Retirement System covered employment for a minimum
125 of 6 calendar months. A de minimis account is an account
126 containing employer and employee contributions and accumulated



851236

127 earnings of not more than \$5,000 made under the provisions of
128 this chapter. Such cash-out must be a complete lump-sum
129 liquidation of the account balance, subject to the provisions of
130 the Internal Revenue Code, or a lump-sum direct rollover
131 distribution paid directly to the custodian of an eligible
132 retirement plan, as defined by the Internal Revenue Code, on
133 behalf of the member. Any nonvested accumulations and associated
134 service credit, including amounts transferred to the suspense
135 account of the Florida Retirement System Investment Plan Trust
136 Fund authorized under s. 121.4501(6), shall be forfeited upon
137 payment of any vested benefit to a member or beneficiary, except
138 for de minimis distributions or minimum required distributions
139 as provided under this section. If any financial instrument
140 issued for the payment of retirement benefits under this section
141 is not presented for payment within 180 days after the last day
142 of the month in which it was originally issued, the third-party
143 administrator or other duly authorized agent of the state board
144 shall cancel the instrument and credit the amount of the
145 instrument to the suspense account of the Florida Retirement
146 System Investment Plan Trust Fund authorized under s.
147 121.4501(6). Any amounts transferred to the suspense account are
148 payable upon a proper application, not to include earnings
149 thereon, as provided in this section, within 10 years after the
150 last day of the month in which the instrument was originally
151 issued, after which time such amounts and any earnings
152 attributable to employer contributions shall be forfeited. Any
153 forfeited amounts are assets of the trust fund and are not
154 subject to chapter 717.

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



851236

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

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

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

164 3. The member must be terminated from all employment with
165 all Florida Retirement System employers, as provided in s.
166 121.021(39).

167 4. Benefit payments may not be made until the member has
168 been terminated for 3 calendar months, except that the state
169 board may authorize by rule for the distribution of up to 10
170 percent of the member's account after being terminated for 1
171 calendar month if the member has reached the normal retirement
172 date as defined in s. 121.021. Effective July 1, 2015, a retired
173 justice or retired judge who returns to temporary employment as
174 a senior judge in any court pursuant to s. 2, Art. V of the
175 State Constitution and meets the criteria in the definition of
176 the term "termination" in s. 121.021(39) (d) may continue to
177 receive a distribution of his or her account as provided under
178 this paragraph after providing proof of assignment as a senior
179 judge.

180 5. If a member or former member of the Florida Retirement
181 System receives an invalid distribution, such person must either
182 repay the full amount within 90 days after receipt of final
183 notification by the state board or the third-party administrator
184 that the distribution was invalid, or, in lieu of repayment, the



851236

185 member must terminate employment from all participating
186 employers. If such person fails to repay the full invalid
187 distribution within 90 days after receipt of final notification,
188 the person may be deemed retired from the investment plan by the
189 state board and is subject to s. 121.122. If such person is
190 deemed retired, any joint and several liability set out in s.
191 121.091(9)(d)2. is void, and the state board, the department, or
192 the employing agency is not liable for gains on payroll
193 contributions that have not been deposited to the person's
194 account in the investment plan, pending resolution of the
195 invalid distribution. The member or former member who has been
196 deemed retired or who has been determined by the state board to
197 have taken an invalid distribution may appeal the agency
198 decision through the complaint process as provided under s.
199 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
200 distribution" means any distribution from an account in the
201 investment plan which is taken in violation of this section, s.
202 121.091(9), or s. 121.4501.

203 Section 4. (1) In order to fund the benefit changes
204 provided in this act, the required employer contribution rates
205 for members of the Florida Retirement System established in s.
206 121.71(4), Florida Statutes, must be adjusted as follows:

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

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

211 (2) In order to fund the benefit changes provided in this
212 act, the required employer contribution rate for the unfunded
213 actuarial liability of the Florida Retirement System established



851236

214 in s. 121.71(5), Florida Statutes, for the Elected Officers'
215 Class for Justices and Judges is increased by 0.91 percentage
216 point.

217 (3) The adjustments provided in subsections (1) and (2)
218 shall be in addition to all other changes to such contribution
219 rates which may be enacted into law to take effect on July 1,
220 2015, and July 1, 2016. The Division of Law Revision and
221 Information is directed to adjust accordingly the contribution
222 rates provided in s. 121.71, Florida Statutes.

223 Section 5. (1) The Legislature finds that a proper and
224 legitimate state purpose is served if employees and retirees of
225 the state and its political subdivisions, and the dependents,
226 survivors, and beneficiaries of such employees and retirees, are
227 extended the basic protections afforded by governmental
228 retirement systems which provide fair and adequate benefits and
229 which are managed, administered, and funded in an actuarially
230 sound manner as required by s. 14, Article X of the State
231 Constitution and part VII of chapter 112, Florida Statutes.
232 Therefore, the Legislature determines and declares that this act
233 fulfills an important state interest.

234 (2) The Legislature further finds that the assignments of
235 former justices and judges to temporary employment as senior
236 judges in any court by the Chief Justice of the Supreme Court in
237 accordance with s. 2, Article V of the State Constitution assist
238 the state courts system in managing caseloads and providing
239 individuals and businesses with access to courts. Therefore, the
240 Legislature further determines and declares that this act
241 fulfills an important state interest by facilitating the ability
242 of justices and judges who retire under the Florida Retirement



851236

243 System in a bona fide termination to return to temporary
244 employment as senior judges in a timely manner.

245

246 ===== T I T L E A M E N D M E N T =====

247 And the title is amended as follows:

248 Delete line 9

249 and insert:

250 retired judge who applies for and returns to temporary

251 employment for compensation as a