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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:

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

3
4 Delete lines 68 - 304
5 and insert:

6 (d) Effective July 1, 2015, and notwithstanding paragraphs
7 (a) and (b), which void a termination if a member does not cease
8 all employment relationships with participating employers for at
9 least 6 calendar months, the termination of a retired justice or
10 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



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