

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SB 936

INTRODUCER: Senator Gainer

SUBJECT: Disability Retirement Benefits

DATE: February 10, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	<b>Favorable</b>
3.	<u>Hackett</u>	<u>Phelps</u>	<u>RC</u>	<b>Pre-meeting</b>

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## I. Summary:

SB 936 amends certification requirements for a veteran to establish a proof of disability to receive a disability retirement benefit under the Florida Retirement System. Specifically, the bill allows a member of the Florida Retirement System who is receiving care at a federal Veterans Health Administration facility to offer certification by two of that facility's physicians as proof of the member's total and permanent disability, regardless of where the physician is licensed. Current law requires a member to receive certification from physicians licensed in Florida or the state in which the member works.

The bill is not expected to impact state or local revenues or expenditures.

The bill takes effect July 1, 2020.

## II. Present Situation:

### Florida Retirement System - Disability Retirement

Benefits under the Florida Retirement System may not be paid unless the member has ended employment.<sup>1</sup> A member who becomes totally and permanently disabled in the line of duty or after completing 5 years of service is entitled to a disability benefit.<sup>2</sup> A member is considered totally and permanently disabled if, "in the opinion of the administrator, he or she is prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as an officer or employee."<sup>3</sup> The Division of Retirement has adopted rules for

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<sup>1</sup> Section 121.091, F.S.

<sup>2</sup> Section 121.091(4), F.S.

<sup>3</sup> Section 121.091(4)(b), F.S.

required documentation of a member's termination of employment and establishment of disability in order to approve disability retirement.<sup>4</sup>

Proof of disability is provided by certification of the member's total and permanent disability from two licensed physicians of the state, as well as other evidence required by the administrator.<sup>5</sup> A member whose employment requires full time work outside the state, but within the United States, may include certification from two physicians licensed in the state in which the member works.<sup>6</sup>

In situations in which a federal veterans health facility is treating a member, physicians licensed in other states frequently provide the health services. In these circumstances, to prove disability, the member must go outside of his or her primary care facility to receive the required disability certification from Florida-licensed physicians. This process may prove time-consuming and costly.

The Florida-licensed physicians must document that:

- The member's medical condition occurred or became symptomatic during the member's employment;
- The member was totally and permanently disabled at the time he or she terminated covered employment; and
- Following termination, the member has not been employed.<sup>7</sup>

If the member applies for an in-line-of-duty disability, the physician must additionally document by competent medical evidence that the disability was caused by a job-related illness or accident during the member's employment.<sup>8</sup>

The administrator may require periodic reexaminations of the status of disability.<sup>9</sup> If the administrator finds that the member has recovered from his or her disability prior to reaching the regular retirement date, disability retirement benefits are discontinued.

### **Veterans Health Administration Physicians**

The Veterans Health Administration (VHA) is one of the main administrations of the United States Department of Veterans Affairs.<sup>10</sup> The VHA operates medical facilities that provide services to nearly 9 million veterans nationwide. While the VHA is responsible for ensuring that physicians at its facilities are properly credentialed, the VHA affords broad discretion to each facility director in hiring and credentialing.<sup>11</sup>

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<sup>4</sup> Section 121.091(4)(a)2., F.S.

<sup>5</sup> Section 121.091(4)(c)1., F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Section 121.091(4)(c)2., F.S.

<sup>8</sup> Section 121.091(4)(c)3., F.S.

<sup>9</sup> Section 121.091(4)(h), F.S.

<sup>10</sup> United States Government Accountability Office, *Greater Focus on Credentialing Needed to Prevent Disqualified Providers from Delivering Patient Care*, pg. 5 (Feb. 2019); available at <https://www.gao.gov/assets/700/697173.pdf>.

<sup>11</sup> *Id.* at 7-8.

A VHA physician must be licensed for unrestricted practice in any state to practice with the agency.<sup>12</sup> The state license must be full, active, current, and unrestricted. A physician who has had his or her license revoked for misconduct, incompetence, or substandard care is not eligible for VHA work unless the license is fully restored by the state licensing board. Physicians must also provide the VHA with employment history, pre-employment references, and details of past involvement with malpractice allegations. Prior to offering a position to a physician, the VHA must consult the National Practitioner Data Bank, which provides a background check for each new hire.<sup>13</sup>

### III. Effect of Proposed Changes:

This bill provides a veteran with another option in establishing a proof of disability when he or she seeks a disability retirement benefit under the Florida Retirement System (FRS). Current law requires the FRS member, in establishing a proof of disability, to submit a certification of the members' total and permanent disability from two licensed physicians of the state, or of the state in which the member works full time. Pursuant to the bill, an FRS member who is receiving care at a federal Veterans Health Administration facility may alternatively offer two of that facility's physicians' certifications as proof of the member's total and permanent disability, regardless of where the physician is licensed.

The bill takes effect July 1, 2020.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

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<sup>12</sup> Department of Veterans Affairs, Veterans Health Administration, *VHA Handbook, Credentialing and Privileging*, Handbook No. 1100.19, Pg. 14 (Oct. 15, 2012) ; available at <https://www.va.gov/vhapublications/publications.cfm?pub=2> (last visited Jan. 14, 2020).

<sup>13</sup> *Id.* at 15-24.

**E. Other Constitutional Issues:**

Article X, Section 14 of the State Constitution requires that any governmental unit increasing Florida Retirement System benefits must concurrently provide for the funding of the increase on a sound actuarial basis. Because this bill does not increase benefits, no actuarial study is required, and no additional funding is necessary.<sup>14</sup>

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

A veteran who is an FRS member seeking a proof of disability would not have to seek out and submit the certification of disability from two licensed physicians in-state if he or she is receiving treatment from a federal Veterans Health Administration (VHA) facility outside the state. Alternatively, the member may receive certification from physicians treating the member at the VHA facility. Therefore, this bill would potentially save the veteran time and money, and the veteran may receive a disability retirement benefit sooner.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 121.091 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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<sup>14</sup> Department of Management Services, *2020 Agency Legislative Bill Analysis* (on file with the Senate Committee on Military and Veterans Affairs and Space).

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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