

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 424  
 SPONSOR: Senator Jones  
 SUBJECT: Retired Judges/Temporary Duty  
 DATE: November 26, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Johnson	JU	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Section 25.073, F.S., sets out the requirements to serve and the compensation for retired judges and justices assigned to temporary judicial duties in accordance with Article V, Section 2(b), of the Constitution of the State of Florida. This bill changes the definition of “retired judge” and “retired justice” for purposes of persons qualifying for temporary judicial duty. The bill provides that a retired judge or justice is someone who has served in a judicial office, who meets the supreme court’s criteria for approval to serve in temporary duty as a judge or justice, and who has limited their practice of law in accordance with the requirements of the supreme court for retired judges or justices. Additionally, any judge not approved for temporary duty prior to or on July 1, 2002, must have served in a judicial office for a minimum of 10 years. The bill eliminates the requirement that the judge or justice not practice law and eliminates the requirement that the judge or justice appointed may not have lost an election or a retention vote.

This bill amends s. 25.073, Florida Statutes.

**II. Present Situation:**

The chief justice of the Supreme Court of Florida is authorized by section 2 of Article V of the Constitution of the State of Florida, to appoint retired judges to temporary duty in any court for which the judge is qualified to serve. Florida Rules of Judicial Administration define a retired judge or “senior judge” as a judge or justice who is not engaged in the practice of law, who has been a judicial officer of this state and who complies with the requirements the Supreme Court deems necessary to the recall as a retired judge or justice. Rule 2.030(a)(3)(A), Florida Rules of Judicial Administration, provides that retired judges or justices assigned to temporary duty will be compensated as provided by law.

Section 25.073, F.S., provides for the term of service, compensation and reimbursement of expenses for retired judges and justices. The terms “retired justice” and “retired judge” are defined in s. 25.073, Florida Statutes, as any former justice or judge who is not practicing law and who in his or her last judicial office was not defeated in seeking reelection or who was not retained when seeking retention during a retention election.

Retired judges or justices meeting the definition of a retired judge in s. 25.073(1), F.S., and who wish to be assigned to temporary duty are to be paid a minimum of \$200 per day or portion of a day served but no retired judge or justice may serve on temporary assignment for more than 60 days a year without approval of the Chief Justice. Currently, court appropriations provide for compensation at the rate of \$300 per day. In addition to the daily compensation, the “senior judge” will receive compensation for necessary travel expenses.

Information provided by the Office of the State Courts Administrator explains the process for approval of a judge or justices request for temporary assignment as a “retired” judge or justice. Upon receipt of an application to become a “retired judge” or “retired justice,” the court will submit the applicants’ name to the Judicial Qualifications Commission to determine if there is any reason why the applicant should not be approved as a retired judge or justice. After receiving a favorable response from the Judicial Qualifications Commission, the court will consider the application in conference for approval or disapproval. The judge or justice will be notified of their acceptance for service as a retired judge or justice and they are then eligible for appointment by a chief judge of a circuit court or district court of appeal.

Once approved a retired judge or justice has specific responsibilities and authority. The retired judge must maintain membership in good standing in the Florida Bar and must complete 30-hours of continuing judicial education every three years. While a person serving as a retired judge may not practice law, the supreme court in an April 12, 1985 conference did approve retired judges or justices to be employed as arbitrators, masters, referees, and court commissioners as well as authorizing them to perform other types of state or federal judicial or quasi-judicial service that does not include the practice of law.

### **III. Effect of Proposed Changes:**

The bill amends s. 25.073, F.S., to provide that the statutory definition of retired judge or justice will not specifically exclude judges or justices who lost in a bid for reelection or who were not retained in a retention election for their last term in office and to modify the restriction on the practice of law. To serve as a retired judge or justice an individual will be required to have served in a judicial office, must meet the requirements of the supreme court for a retired judge or justice, and must limit their practice of law in accordance with the requirements of the supreme court for retired judges. Further, judges or justices not approved for temporary duty prior to July 1, 2002, must have served in a judicial office for a minimum of 10 years to qualify for compensation as a retired judge or justice.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. Other Constitutional Issues:

The constitution specifically provides the authority to assign retired judges to the chief justice of the Supreme Court. (s. 2, Article V) Further, the court has exclusive jurisdiction of issues related to practice and procedure in all the courts pursuant to s. 2, Article V, including the administrative supervision of the courts. However, the constitution does not specifically define the term retired judge or justice and simply provides the chief justice the authority to appoint these judges or justices to duty in any court for which they are qualified. Currently, definitions for “retired judge” and “retired justice” are provided in s. 25.073, F.S., and in Rule 2.030 (a)(3)(B), Judicial Rules of Administration. Further, these definitions are in conflict in current law. With the amendments proposed in the bill, the statute would not be in conflict with court rules.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

According to the court there should be no fiscal impact from SB 424, as it does not revise the compensation of senior judges.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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