

1 A bill to be entitled

2 An act relating to employment after retirement of
3 school district personnel; amending ss. 121.091 and
4 238.181, F.S.; revising provisions relating to
5 reemployment of retirees as instructional personnel on
6 a contract basis; clarifying applicability and
7 legislative intent; amending s. 1012.33, F.S.;
8 revising provisions relating to reemployment of
9 retirees as instructional personnel on a contract
10 basis; providing legislative intent and findings to
11 clarify authorization to award contracts; providing
12 requirements for a judgment in certain civil actions
13 or administrative proceedings; providing an effective
14 date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Paragraph (b) of subsection (9) of section
19 121.091, Florida Statutes, is amended to read:

20 121.091 Benefits payable under the system.—Benefits may
21 not be paid under this section unless the member has terminated
22 employment as provided in s. 121.021(39)(a) or begun
23 participation in the Deferred Retirement Option Program as
24 provided in subsection (13), and a proper application has been
25 filed in the manner prescribed by the department. The department
26 may cancel an application for retirement benefits when the

27 member or beneficiary fails to timely provide the information
28 and documents required by this chapter and the department's
29 rules. The department shall adopt rules establishing procedures
30 for application for retirement benefits and for the cancellation
31 of such application when the required information or documents
32 are not received.

33 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

34 (b) Any person whose retirement is effective before July
35 1, 2010, or whose participation in the Deferred Retirement
36 Option Program terminates before July 1, 2010, except under the
37 disability retirement provisions of subsection (4) or as
38 provided in s. 121.053, may be reemployed by an employer that
39 participates in a state-administered retirement system and
40 receive retirement benefits and compensation from that employer,
41 except that the person may not be reemployed by an employer
42 participating in the Florida Retirement System before meeting
43 the definition of termination in s. 121.021 and may not receive
44 both a salary from the employer and retirement benefits for 12
45 calendar months immediately subsequent to the date of
46 retirement. 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. A retiree who violates such reemployment limitation
51 before completion of the 12-month limitation period must give
52 timely notice of this fact in writing to the employer and to the

53 Division of Retirement or the state board and shall have his or
54 her retirement benefits suspended for the months employed or the
55 balance of the 12-month limitation period as required in sub-
56 subparagraphs b. and c. A retiree employed in violation of this
57 paragraph and an employer who employs or appoints such person
58 are jointly and severally liable for reimbursement to the
59 retirement trust fund, including the Florida Retirement System
60 Trust Fund and the Public Employee Optional Retirement Program
61 Trust Fund, from which the benefits were paid. The employer must
62 have a written statement from the retiree that he or she is not
63 retired from a state-administered retirement system. Retirement
64 benefits shall remain suspended until repayment has been made.
65 Benefits suspended beyond the reemployment limitation shall
66 apply toward repayment of benefits received in violation of the
67 reemployment limitation.

68 a. A district school board may reemploy a retiree as a
69 substitute or hourly teacher, education paraprofessional,
70 transportation assistant, bus driver, or food service worker on
71 a noncontractual basis after he or she has been retired for 1
72 calendar month. After a retiree has been retired for 1 calendar
73 month, a district school board may reemploy the ~~a~~ retiree as
74 instructional personnel, as defined in s. 1012.01(2)(a), under a
75 1-year probationary contract as defined in s. 1012.335(1)(c). If
76 the retiree successfully completes the probationary contract,
77 the district school board may reemploy the retiree on an annual
78 contract basis as defined in s. 1012.335(1)(a) ~~on an annual~~

79 ~~contractual basis after he or she has been retired for 1~~
80 ~~calendar month.~~ Any member who is reemployed within 1 calendar
81 month after retirement shall void his or her application for
82 retirement benefits. District school boards reemploying such
83 teachers, education paraprofessionals, transportation
84 assistants, bus drivers, or food service workers are subject to
85 the retirement contribution required by subparagraph 2. This
86 sub-subparagraph does not allow, and has never allowed, a
87 retiree to be awarded a professional service contract under s.
88 1012.33.

89 b. A Florida College System institution board of trustees
90 may reemploy a retiree as an adjunct instructor or as a
91 participant in a phased retirement program within the Florida
92 College System, after he or she has been retired for 1 calendar
93 month. A member who is reemployed within 1 calendar month after
94 retirement shall void his or her application for retirement
95 benefits. Boards of trustees reemploying such instructors are
96 subject to the retirement contribution required in subparagraph
97 2. A retiree may be reemployed as an adjunct instructor for no
98 more than 780 hours during the first 12 months of retirement. A
99 retiree reemployed for more than 780 hours during the first 12
100 months of retirement must give timely notice in writing to the
101 employer and to the Division of Retirement or the state board of
102 the date he or she will exceed the limitation. The division
103 shall suspend his or her retirement benefits for the remainder
104 of the 12 months of retirement. Any retiree employed in

violation of this sub-subparagraph and any employer who employs or appoints such person without notifying the division to suspend retirement benefits are jointly and severally liable for any benefits paid during the reemployment limitation period. The employer must have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by the retiree while reemployed in excess of 780 hours during the first 12 months of retirement must be repaid to the Florida Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retiree's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

c. The State University System may reemploy a retiree as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retiree has been retired for 1 calendar month. A member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in subparagraph 2., as appropriate. A retiree may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. A retiree reemployed for more than 780 hours during the first 12 months of retirement

131 must give timely notice in writing to the employer and to the
132 Division of Retirement or the state board of the date he or she
133 will exceed the limitation. The division shall suspend his or
134 her retirement benefits for the remainder of the 12 months. Any
135 retiree employed in violation of this sub-subparagraph and any
136 employer who employs or appoints such person without notifying
137 the division to suspend retirement benefits are jointly and
138 severally liable for any benefits paid during the reemployment
139 limitation period. The employer must have a written statement
140 from the retiree that he or she is not retired from a state-
141 administered retirement system. Any retirement benefits received
142 by the retiree while reemployed in excess of 780 hours during
143 the first 12 months of retirement must be repaid to the Florida
144 Retirement System Trust Fund, and retirement benefits shall
145 remain suspended until repayment is made. Benefits suspended
146 beyond the end of the retiree's first 12 months of retirement
147 shall apply toward repayment of benefits received in violation
148 of the 780-hour reemployment limitation.

149 d. The Board of Trustees of the Florida School for the
150 Deaf and the Blind may reemploy a retiree as a substitute
151 teacher, substitute residential instructor, or substitute nurse
152 on a noncontractual basis after he or she has been retired for 1
153 calendar month. Any member who is reemployed within 1 calendar
154 month after retirement shall void his or her application for
155 retirement benefits. The Board of Trustees of the Florida School
156 for the Deaf and the Blind reemploying such teachers,

residential instructors, or nurses is subject to the retirement contribution required by subparagraph 2.

e. A developmental research school may reemploy a retiree as a substitute or hourly teacher or an education paraprofessional as defined in s. 1012.01(2) on a noncontractual basis after he or she has been retired for 1 calendar month.

After a retiree has been retired for 1 calendar month, a developmental research school may reemploy the a retiree as instructional personnel, as defined in s. 1012.01(2)(a), under a 1-year probationary contract as defined in s. 1012.335(1)(c). If the retiree successfully completes the probationary contract, the developmental research school may reemploy the retiree on an annual contract basis as defined in s. 1012.335(1)(a) ~~on an annual contractual basis after he or she has been retired for 1 calendar month after retirement.~~ Any member who is reemployed within 1 calendar month voids his or her application for retirement benefits. A developmental research school that reemploys retired teachers and education paraprofessionals is subject to the retirement contribution required by subparagraph 2. This sub-subparagraph does not allow, and has never allowed, a retiree to be awarded a professional service contract under s. 1012.33.

f. A charter school may reemploy a retiree as a substitute or hourly teacher on a noncontractual basis after he or she has been retired for 1 calendar month. After a retiree has been retired for 1 calendar month, a charter school may reemploy the

183 retiree ~~a retired member~~ as instructional personnel, as defined
184 in s. 1012.01(2)(a), under a 1-year probationary contract as
185 defined in s. 1012.335(1)(c). If the retiree successfully
186 completes the probationary contract, the charter school may
187 reemploy the retiree on an annual contract basis as defined in
188 s. 1012.335(1)(a) ~~on an annual contractual basis after he or she~~
189 ~~has been retired for 1 calendar month after retirement.~~ Any
190 member who is reemployed within 1 calendar month voids his or
191 her application for retirement benefits. A charter school that
192 reemploys such teachers is subject to the retirement
193 contribution required by subparagraph 2. This sub-subparagraph
194 does not allow, and has never allowed, a retiree to be awarded a
195 professional service contract under s. 1012.33.

196 2. The employment of a retiree or DROP participant of a
197 state-administered retirement system does not affect the average
198 final compensation or years of creditable service of the retiree
199 or DROP participant. Before July 1, 1991, upon employment of any
200 person, other than an elected officer as provided in s. 121.053,
201 who is retired under a state-administered retirement program,
202 the employer shall pay retirement contributions in an amount
203 equal to the unfunded actuarial liability portion of the
204 employer contribution which would be required for regular
205 members of the Florida Retirement System. Effective July 1,
206 1991, contributions shall be made as provided in s. 121.122 for
207 retirees who have renewed membership or, as provided in
208 subsection (13), for DROP participants.

209 3. Any person who is holding an elective public office
210 which is covered by the Florida Retirement System and who is
211 concurrently employed in nonelected covered employment may elect
212 to retire while continuing employment in the elective public
213 office if he or she terminates his or her nonelected covered
214 employment. Such person shall receive his or her retirement
215 benefits in addition to the compensation of the elective office
216 without regard to the time limitations otherwise provided in
217 this subsection. A person who seeks to exercise the provisions
218 of this subparagraph as they existed before May 3, 1984, may not
219 be deemed to be retired under those provisions, unless such
220 person is eligible to retire under this subparagraph, as amended
221 by chapter 84-11, Laws of Florida.

222 Section 2. Paragraph (c) of subsection (2) of section
223 238.181, Florida Statutes, is amended to read:

224 238.181 Reemployment after retirement; conditions and
225 limitations.—

226 (2)

227 (c) Effective July 1, 2003, after a retired member has
228 been retired for 1 calendar month in accordance with s.
229 121.021(39), a district school board may reemploy such retired
230 member as a substitute or hourly teacher on a noncontractual
231 basis, or reemploy such retired member as instructional
232 personnel, as defined in s. 1012.01(2)(a), under a 1-year
233 probationary contract as defined in s. 1012.335(1)(c). If the
234 retiree successfully completes the probationary contract, the

235 district school board may reemploy the retiree on an annual
236 contract basis as defined in s. 1012.335(1)(a) ~~on an annual~~
237 ~~contractual basis~~. Any other retired member who is reemployed
238 within 1 calendar month after retirement shall void his or her
239 application for retirement benefits. All retirees reemployed
240 under this paragraph shall become renewed members of the Florida
241 Retirement System under s. 121.122, and district school boards
242 reemploying such retired members as described herein are subject
243 to the contributions as provided for renewed membership. This
244 paragraph does not allow, and has never allowed, a retiree to be
245 awarded a professional service contract under s. 1012.33.

246 Section 3. Subsection (8) of section 1012.33, Florida
247 Statutes, is amended to read:

248 1012.33 Contracts with instructional staff, supervisors,
249 and school principals.—

250 (8)(a) In conformance with ss. 121.091 and 238.181, after
251 a retiree has been retired for 1 calendar month, a district
252 school board may reemploy the retiree as instructional
253 personnel, as defined in s. 1012.01(2)(a), under a 1-year
254 probationary contract as defined in s. 1012.335(1)(c). If the
255 retiree successfully completes the probationary contract, the
256 district school board may reemploy the retiree on an annual
257 contract basis as defined in s. 1012.335(1)(a).

258 (b) Neither this subsection, nor any other law, was
259 intended or may be construed to allow a retiree to be awarded a
260 professional service contract. The Legislature finds that the

261 holding in Orange County School Board v. Rachman and Schuman, 87
262 So. 3d 48 (Fla. 5th DCA 2012), that retirees under s.
263 121.091(9)(b)1.a. and this subsection are entitled to
264 professional service contracts, was contrary to legislative
265 intent at the time the statutes were enacted. The Legislature
266 finds that retirees under s. 121.091(9)(b)1.a. and this
267 subsection are not eligible, and were never eligible, to receive
268 a professional service contract under this section or any other
269 law. In a civil action or administrative proceeding, if a
270 classroom teacher was formerly retired and then reemployed by
271 the district school board pursuant to s. 121.091(9)(b)1.a. and
272 this section, a judgment shall be entered against that classroom
273 teacher on any claim or cause of action against the district
274 school board, the district school superintendent, or a district
275 school board employee for not awarding that teacher a
276 professional service contract. Notwithstanding any other
277 ~~provision of law, a retired member may interrupt retirement and~~
278 ~~be reemployed in any public school. A member reemployed by the~~
279 ~~same district from which he or she retired may be employed on a~~
280 ~~probationary contractual basis as provided in subsection (1).~~

281 Section 4. This act shall take effect upon becoming a law.