

## CHAPTER 2024-92

### Committee Substitute for House Bill No. 151

An act relating to the Florida Retirement System; amending s. 121.091, F.S.; authorizing certain retirees to be reemployed after terminating employment; prohibiting such retirees from receiving both a salary from the employer and retirement benefits for a specified period after his or her retirement; removing provisions authorizing the reemployment of certain law enforcement officers as school resource officers; amending s. 121.1001, F.S.; prohibiting new participation in a specified plan beginning on a specified date; amending s. 121.71, F.S.; revising employer contribution rates to the Florida Retirement System; amending s. 121.591, F.S.; conforming a cross-reference; providing a declaration of important state interest; providing an effective date.

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

Section 1. Subsection (9) of section 121.091, Florida Statutes, is amended to read:

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

#### (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(a) Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be employed by an employer that does not participate in a state-administered retirement system and receive compensation from that employment without limiting or restricting in any way the retirement benefits payable to that person.

(b) Any person whose retirement is effective before July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates before July 1, 2010, except under the disability retirement provisions of subsection (4) or as provided in s. 121.053, may be reemployed by an employer that participates in a state-administered retirement system and receive retirement benefits and compensation from that employer, except that the person may not be reemployed by an employer participating in the Florida Retirement System before meeting the definition of termination in s.

121.021 and may not receive both a salary from the employer and retirement benefits for 12 calendar months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

1. A retiree who violates such reemployment limitation before completion of the 12-month limitation period must give timely notice of this fact in writing to the employer and to the Division of Retirement or the state board and shall have his or her retirement benefits suspended for the months employed or the balance of the 12-month limitation period as required in sub-subparagraphs b. and c. A retiree employed in violation of this paragraph and an employer who employs or appoints such person are jointly and severally liable for reimbursement to the retirement trust fund, including the Florida Retirement System Trust Fund and the Florida Retirement System Investment Plan Trust Fund, from which the benefits were paid. The employer must have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Retirement benefits shall remain suspended until repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

a. A district school board may reemploy a retiree as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis after he or she has been retired for 1 calendar month. A district school board may reemploy a retiree as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month. Any member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers, education paraprofessionals, transportation assistants, bus drivers, or food service workers are subject to the retirement contribution required by subparagraph 2.

b. A Florida College System institution board of trustees may reemploy a retiree as an adjunct instructor or as a participant in a phased retirement program within the Florida College System, after he or she 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. Boards of trustees reemploying such instructors are subject to the retirement contribution required in subparagraph 2. A retiree may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of retirement. A retiree reemployed for more than 780 hours during the first 12 months of retirement must give timely notice in writing to the employer and to the Division of Retirement or the state board of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder 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 must give timely notice in writing to the employer and to the Division of Retirement or the state board of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the 12 months. 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.

d. The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a retiree as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she has been retired for 1 calendar month. Any member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School 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. A developmental research school may reemploy a retiree

as instructional personnel, as defined in s. 1012.01(2)(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.

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. A charter school may reemploy a retired member as instructional personnel, as defined in s. 1012.01(2)(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 charter school that reemploys such teachers is subject to the retirement contribution required by subparagraph 2.

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

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

(c) Any person whose retirement is effective on or after July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates on or after July 1, 2010, who is retired under this chapter, except under the disability retirement provisions of subsection (4) or as provided in s. 121.053, may be reemployed by an employer that participates in a state-administered retirement system and receive retirement benefits and compensation from that employer. However, a person may not be reemployed by an employer participating in the Florida Retirement System before meeting the definition of termination in s. 121.021 and may not receive both a salary from the

employer and retirement benefits for 6 calendar months after meeting the definition of termination, except as provided in paragraph (d) (f). However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

1. The reemployed retiree may not renew membership in the Florida Retirement System, except as provided in s. 121.122.

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

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

(d) Beginning July 1, 2024, a retiree who has met the definition of termination in s. 121.021 may be reemployed by an employer that participates in a state-administered retirement system and receive retirement benefits and compensation from that employer but may not receive both a salary from the employer and retirement benefits for 6 calendar months immediately subsequent to the date of retirement.

~~(e)(d)~~ This subsection applies to retirees, as defined in s. 121.4501(2), of the Florida Retirement System Investment Plan, subject to the following conditions:

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

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

(f)(e) The limitations of this subsection apply to reemployment in any capacity irrespective of the category of funds from which the person is compensated.

~~(f) A retired law enforcement officer may be reemployed as a school resource officer by an employer that participates in the Florida Retirement System and receive compensation from that employer and retirement benefits after meeting the definition of termination in s. 121.021, but may not receive both a salary from the employer and retirement benefits for 6 calendar months immediately subsequent to the date of retirement. The reemployed retired law enforcement officer may not renew membership in the Florida Retirement System, except as provided in s. 121.122.~~

Section 2. Subsection (5) is added to section 121.1001, Florida Statutes, to read:

121.1001 Florida Retirement System Preservation of Benefits Plan.—Effective July 1, 1999, the Florida Retirement System Preservation of Benefits Plan is established as a qualified governmental excess benefit arrangement pursuant to s. 415(m) of the Internal Revenue Code. The Preservation of Benefits Plan is created as a separate portion of the Florida Retirement System, for the purpose of providing benefits to a payee (retiree or beneficiary) of the Florida Retirement System whose benefits would otherwise be limited by s. 415(b) of the Internal Revenue Code.

(5) CLOSURE TO NEW MEMBERS.—Effective July 1, 2026, the Florida Retirement System Preservation of Benefits Plan is closed to new members.

Section 3. Subsections (4) and (5) of section 121.71, Florida Statutes, are amended to read:

121.71 Uniform rates; process; calculations; levy.—

(4) Required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2024</u> <del>2023</del>
Regular Class	6.73%
Special Risk Class	18.66%

	Percentage of Gross Compensation, Effective July 1, <u>2024</u> <del>2023</del>
Membership Class	
Special Risk Administrative Support Class	11.54%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>10.70%</u> <del>10.45%</del>
Elected Officers' Class— Justices, Judges	14.90%
Elected Officers' Class— County Elected Officers	12.39%
Senior Management Service Class	8.56%
DROP	8.49%

(5) In order to address unfunded actuarial liabilities of the system, the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

	Percentage of Gross Compensation, Effective July 1, <u>2024</u> <del>2023</del>
Membership Class	
Regular Class	<u>4.84%</u> <del>4.78%</del>
Special Risk Class	<u>12.07%</u> <del>11.95%</del>
Special Risk Administrative Support Class	26.22%

	Percentage of Gross Compensation, Effective July 1, <u>2024</u> <del>2023</del>
Membership Class	
Elected Officers’ Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	50.21%
Elected Officers’ Class— Justices, Judges	<u>28.49%</u> <del>27.93%</del>
Elected Officers’ Class— County Elected Officers	44.23%
Senior Management Service Class	23.90%
DROP	10.64%

Section 4. Paragraph (a) of subsection (1) of section 121.591, Florida Statutes, is amended to read:

121.591 Payment of benefits.—Benefits may not be paid under the Florida Retirement System Investment Plan unless the member has terminated employment as provided in s. 121.021(39)(a) or is deceased and a proper application has been filed as prescribed by the state board or the department. Benefits, including employee contributions, are not payable under the investment plan for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee’s principal residence, or any other reason except a requested distribution for retirement, a mandatory de minimis distribution authorized by the administrator, or a required minimum distribution provided pursuant to the Internal Revenue Code. The state board or department, as appropriate, may cancel an application for retirement benefits if the member or beneficiary fails to timely provide the information and documents required by this chapter and the rules of the state board and department. In accordance with their respective responsibilities, the state board and the department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application if the required information or documents are not received. The state board and the department, as appropriate, are authorized to cash out a de minimis account of a member who has been terminated from Florida Retirement System covered employment for a minimum of 6 calendar months. A de minimis account is an account containing employer and employee contributions and accumulated earnings of not more than \$5,000 made under the provisions of



this chapter. Such cash-out must be a complete lump-sum liquidation of the account balance, subject to the provisions of the Internal Revenue Code, or a lump-sum direct rollover distribution paid directly to the custodian of an eligible retirement plan, as defined by the Internal Revenue Code, on behalf of the member. Any nonvested accumulations and associated service credit, including amounts transferred to the suspense account of the Florida Retirement System Investment Plan Trust Fund authorized under s. 121.4501(6), shall be forfeited upon payment of any vested benefit to a member or beneficiary, except for de minimis distributions or minimum required distributions as provided under this section. If any financial instrument issued for the payment of retirement benefits under this section is not presented for payment within 180 days after the last day of the month in which it was originally issued, the third-party administrator or other duly authorized agent of the state board shall cancel the instrument and credit the amount of the instrument to the suspense account of the Florida Retirement System Investment Plan Trust Fund authorized under s. 121.4501(6). Any amounts transferred to the suspense account are payable upon a proper application, not to include earnings thereon, as provided in this section, within 10 years after the last day of the month in which the instrument was originally issued, after which time such amounts and any earnings attributable to employer contributions shall be forfeited. Any forfeited amounts are assets of the trust fund and are not subject to chapter 717.

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

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

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

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

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

4. Benefit payments may not be made until the member has been terminated for 3 calendar months, except that the state board may authorize by rule for the distribution of up to 10 percent of the member's account after being terminated for 1 calendar month if the member has reached the normal retirement date as defined in s. 121.021.

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

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

Section 5. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and that are managed, administered, and funded in an actuarially sound manner as required by s. 14, Art. X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 6. This act shall take effect July 1, 2024.

Approved by the Governor April 15, 2024.

Filed in Office Secretary of State April 15, 2024.