

1                                   A bill to be entitled  
 2           An act relating to the Florida Retirement System;  
 3           amending s. 121.021, F.S.; revising and providing  
 4           definitions; amending s. 121.091, F.S.; authorizing  
 5           employers to establish volunteer programs;  
 6           establishing criteria for such programs; providing an  
 7           effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Subsection (39) of section 121.021, Florida  
 12           Statutes, is amended, and subsection (65) is added to that  
 13           section, to read:

14           121.021 Definitions.—The following words and phrases as  
 15           used in this chapter have the respective meanings set forth  
 16           unless a different meaning is plainly required by the context:

17           (39) (a) "Termination" occurs, except as provided in  
 18           paragraphs paragraph (b) and (c), when a member ceases all  
 19           employment, which term includes the provision of services,  
 20           ~~relationships with all participating~~ employers, however:

21           1. For retirements effective before July 1, 2010, if a  
 22           member is employed by any ~~such~~ employer within the next calendar  
 23           month, termination shall be deemed not to have occurred. A leave  
 24           of absence constitutes a continuation of the employment  
 25           relationship, except that a leave of absence without pay due to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26 disability may constitute termination if such member makes  
 27 application for and is approved for disability retirement in  
 28 accordance with s. 121.091(4). ~~The department or state board may~~  
 29 ~~require other evidence of termination as it deems necessary.~~

30 2. For retirements effective on or after July 1, 2010, if  
 31 a member is employed by any ~~such~~ employer within the next 6  
 32 calendar months, termination shall be deemed not to have  
 33 occurred. A leave of absence constitutes a continuation of the  
 34 employment relationship, except that a leave of absence without  
 35 pay due to disability may constitute termination if such member  
 36 makes application for and is approved for disability retirement  
 37 in accordance with s. 121.091(4). ~~The department or state board~~  
 38 ~~may require other evidence of termination as it deems necessary.~~

39 (b) "Termination" for a member ending participation  
 40 ~~electing to participate~~ in the Deferred Retirement Option  
 41 Program occurs when the program participant ceases all  
 42 employment, which term includes the provision of services,  
 43 ~~relationships with all participating~~ employers in accordance  
 44 with s. 121.091(13), however:

45 1. For termination dates occurring before July 1, 2010, if  
 46 a ~~the~~ member is employed by any ~~such~~ employer within the next  
 47 calendar month, termination shall ~~will~~ be deemed not to have  
 48 occurred, except as provided in s. 121.091(13)(b)4.c. A leave of  
 49 absence constitutes ~~shall constitute~~ a continuation of the  
 50 employment relationship.

51           2. For termination dates occurring on or after July 1,  
 52 2010, if a ~~the~~ member becomes employed by any ~~such~~ employer  
 53 within the next 6 calendar months, termination shall ~~will~~ be  
 54 deemed not to have occurred, except as provided in s.  
 55 121.091(13)(b)4.c. A leave of absence constitutes a continuation  
 56 of the employment relationship.

57           (c) Effective July 1, 2011, "termination" for a member  
 58 receiving a refund of employee contributions occurs when a  
 59 member ceases all employment, which term includes the provision  
 60 of services, relationships with all participating employers for  
 61 3 calendar months. A leave of absence constitutes a continuation  
 62 of the employment relationship.

63  
 64 All terminations must be a termination of employment as defined  
 65 in 26 C.F.R. s. 1.409A-1(h)(1)(ii). Volunteer services do not  
 66 constitute employment by, or provision of services to, an  
 67 employer. The department or state board may require any evidence  
 68 of termination necessary to determine compliance with this  
 69 chapter or the rules adopted thereunder.

70           (65) "Volunteer services" means services provided in  
 71 accordance with s. 121.091(15).

72           Section 2. Subsection (15) is added to section 121.091,  
 73 Florida Statutes, to read:

74           121.091 Benefits payable under the system.—Benefits may  
 75 not be paid under this section unless the member has terminated

76 employment as provided in s. 121.021(39) (a) or begun  
 77 participation in the Deferred Retirement Option Program as  
 78 provided in subsection (13), and a proper application has been  
 79 filed in the manner prescribed by the department. The department  
 80 may cancel an application for retirement benefits when the  
 81 member or beneficiary fails to timely provide the information  
 82 and documents required by this chapter and the department's  
 83 rules. The department shall adopt rules establishing procedures  
 84 for application for retirement benefits and for the cancellation  
 85 of such application when the required information or documents  
 86 are not received.

87 (15) VOLUNTEER SERVICES.—Employers may establish  
 88 postemployment volunteer programs to allow retirees to provide  
 89 civic, charitable, and humanitarian services during the first 12  
 90 calendar months following retirement without causing the retiree  
 91 to violate the requirement concerning termination of employment  
 92 as defined in 26 C.F.R. s. 1.409A-1(h) (1) (ii), provided that the  
 93 program meets all of the following criteria:

94 (a) Before the date of retirement, there was no agreement  
 95 or understanding between the employer and the retiree that the  
 96 retiree would provide any service for the employer.

97 (b) The employer or a third party may not provide any form  
 98 of compensation, including any cash equivalents, to a volunteer  
 99 for his or her volunteer service.

100 (c) Except as otherwise provided in law, a volunteer may

101 not be provided any employee benefits, including health or life  
 102 insurance benefits. However, a volunteer may be provided certain  
 103 prerequisites necessary to complete tasks associated with the  
 104 volunteer program, such as an assigned uniform or the provision  
 105 of equipment.

106 (d) The number of volunteer hours per week, including  
 107 training hours, that the volunteer may provide is no more than  
 108 20 percent of the number of hours that the volunteer was  
 109 expected to work per week before his or her date of retirement.

110 (e) There is a clear distinction between the duties of a  
 111 volunteer and the duties of an employee.

112 (f) The schedule of a volunteer, including the number of  
 113 hours volunteered and the number and type of assignments for  
 114 which he or she agrees to volunteer, is controlled by the  
 115 volunteer.

116 (g) The employer and the retiree are both required to  
 117 maintain adequate records to document adherence to the criteria  
 118 listed in this subsection. The records must be made available to  
 119 the department or state board upon request.

120 Section 3. This act shall take effect July 1, 2023.