



# Pam Childers

Clerk of the Circuit Court and Comptroller, Escambia County

Clerk of Courts • County Comptroller • Clerk of the Board of County Commissioners • Recorder • Auditor

February 8, 2022  
(via electronic delivery)

Commissioner Jeff Bergosh  
Chairman of the Escambia County  
Board of County Commissioners  
221 Palafox Place  
Pensacola, Florida 32502

Re: Propriety of Escambia County Contributions to a Private Retirement Plan  
for the Benefit of Commissioners Barry, May, & Bender

Dear Chairman Bergosh:

I wish to take this opportunity to clarify certain misunderstandings that members of your Board may have in regards to their ability to rejoin the Florida Retirement System. It appears that your Board may be laboring under the mistaken impression that Commissioners Barry, May, and Bender are prohibited from rejoining the FRS.

On Friday, Jan 7, 2022, I happened to have a phone conversation with Commissioner Bender on an unrelated matter. Commissioner Bender made a brief comment that the Florida Retirement System denied the Commissioners from rejoining the FRS. I commented that I was surprised and had a different interpretation of the statute.

Of course, the position the Commissioners are prohibited from rejoining the FRS is contrary to the findings and opinions of my general counsel, Codey Leigh, who has consistently stated that the Commissioners can reenter the FRS at any time. As Mr. Leigh has pointed out, Florida Statute Section 121.052(3)(d)3 provides:

*Any elected officer who has withdrawn from the Florida Retirement System pursuant to this paragraph shall be permitted to rejoin the Elected Officers' Class upon written request to the administrator.*

It is my understanding that County staff is also now aware that the Commissioners may rejoin the FRS whenever they might desire. Please find attached copies of recent email exchanges between County HR staff and the Bureau Chief for the Florida Department of Management Services, Division of Retirement, Bureau of Enrollment & Contributions. On January 12, 2022 the Bureau Chief cited the above statute and confirmed that indeed the Commissioners/Elected Officers may rejoin the FRS at any time upon email request to the Division of Retirement at

Letter to Chairman Bergosh  
February 8, 2022

Enrollment@dms.fl.gov, and that FRS membership will become effective the first day of the calendar month following receipt of the request.

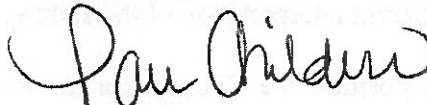
I provide this information to make sure that your Board is aware that they can indeed rejoin the FRS. Another reason for this letter is to make record of the fact that County leadership was aware of the foregoing so as to preclude equitable claims as to any loss of retirement contributions that otherwise might have been available to them.

Separate from the above, it is interesting to note that your HR staff's January 5, 2022, inquiry to the FRS began with the statement:

*I have 3 of our county commissioners who elected to withdraw from the FRS and enroll in a local annuity plan. Per our county attorney they are no longer eligible for this plan, so I have a couple questions pertaining to them reentering the FRS. (Emphasis added.)*

Thus, with the County Attorney having opined to your HR staff that the three Commissioners are not eligible for the local plan (i.e., the ICMA 401(a) Plan), it appears that the dispute as to the propriety of my refusing further contributions to that Plan is moot. Would it not be prudent, therefore, to dispense with further litigation; and, instead, arrange for the three Commissioners to promptly rejoin the FRS? Also, in the email exchange, the Division of Retirement stated to your HR Department that the three Commissioners can receive credit for the period they had withdrawn from the FRS by the County and Commissioners making payment to the FRS as provided in Fla. Stat. Sec. 121.052(3)(d)(3)(a).

Sincerely,



Pam Childers

Clerk of the Circuit Court & Comptroller

Enclosure: Email Communication

annually until the date of payment. The payment of the total of such amount shall be made by the employer and the elected officer in the relative proportions provided by law for contributions during the period of withdrawal.

To rejoin the FRS, each withdrawn elected officer may email their request to the Division of Retirement at the following email address: [Enrollment@dms.fl.gov](mailto:Enrollment@dms.fl.gov)

The FRS membership will become effective the first day of the calendar month following receipt of the request. The County should include the elected officer on its retirement report for the month following the election to rejoin the FRS.

Thank you,

Joyce W. Morgan, PhD, FCCM, CGB | Bureau Chief  
Division of Retirement  
850-414-6371 (office)  
Florida Department of Management Services  
We Serve Those Who Serve Florida



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From: [retirement@dms.myflorida.com](mailto:retirement@dms.myflorida.com) <[retirement@dms.myflorida.com](mailto:retirement@dms.myflorida.com)>  
Sent: Saturday, January 8, 2022 10:45 AM  
To: Sarah L. Taber <[sltaber1@myescambia.com](mailto:sltaber1@myescambia.com)>  
Cc: Melissa M. Eckroth <[mmeckroth@myescambia.com](mailto:mmeckroth@myescambia.com)>  
Subject: [EXTERNAL]Re: Questions regarding our elected officials

**WARNING! This email originated from an outside network. DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.**

Greetings,

Thank you for contacting the Division of Retirement.

We received your inquiry and have forwarded it to the appropriate area for response.

If you require immediate assistance, our hours of operation are 8:00 a.m. to 5:00 p.m. ET, Monday through Friday, except on designated state holidays. You may reach our offices by calling, toll-free, 844-377-1888 or 850-907-6500.

Regards,

Paul E.  
Division of Retirement  
Florida Department of Management Services

## Pam Childers (COC)

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**From:** Green, Garry <garry.green@dms.myflorida.com>  
**Sent:** Monday, February 7, 2022 1:44 PM  
**To:** Codey Leigh (COC)  
**Subject:** [EXTERNAL]FW: [EXTERNAL]Re: Questions regarding our elected officials  
**Attachments:** PGP.sig

Hello Codey,

This is a follow up to your call about elected officers who have withdrawn from the FRS and how they may later rejoin the FRS.

Please see the information below that outlines the process.

Sincerely,

**Garry Green** | Retirement Policy Administrator  
*Retirement*  
850-414-6349 (office)  
Florida Department of Management Services  
**We Serve Those Who Serve Florida**



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**From:** Morgan, Joyce  
**Sent:** Wednesday, January 12, 2022 3:57 PM  
**To:** Melissa M. Eckroth <[mmeckroth@myescambia.com](mailto:mmeckroth@myescambia.com)>; 'sltaber1@myescambia.com' <[sltaber1@myescambia.com](mailto:sltaber1@myescambia.com)>  
**Cc:** Starks-Harrison, Samantha <[Samantha.Starks-Harrison@dms.myflorida.com](mailto:Samantha.Starks-Harrison@dms.myflorida.com)>  
**Subject:** RE: [EXTERNAL]Re: Questions regarding our elected officials

Dear Ms. Taber,

You asked if an elected officer who has withdrawn from the FRS elect to rejoin.

Subsection 121.052(3)(d)3., Florida Statutes (F.S.), states: "[a]ny elected officer who has withdrawn from the Florida Retirement System pursuant to this paragraph shall be permitted to rejoin the Elected Officers' Class (EOC) upon written request to the administrator."

Subsection 121.052(3)(d)3. b, F.S., states:

Credit for prior service based on the period during which the elected officer had withdrawn from the system, and for which no contributions were made, shall be received by the elected officer upon payment to the System Trust Fund of an amount equal to the contributions required, under the contribution rate in effect during the period of withdrawal for which credit is being purchased, plus 6.5 percent interest, compounded

Fax: 850-410-2010  
Email: [retirement@dms.fl.gov](mailto:retirement@dms.fl.gov)

-- original message below --

From: [sltaber1@myescambia.com](mailto:sltaber1@myescambia.com)  
To: "[Retirement@dms.myflorida.com](mailto:Retirement@dms.myflorida.com)"  
Date: Wed, 05 Jan 2022 03:50:01  
Subject: Questions regarding our elected officials

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Good Afternoon,

I have 3 of our county commissioners who elected to withdraw from the FRS and enroll in a local annuity plan. Per our county attorney they are no longer eligible for this plan, so I have a couple questions pertaining to them reentering the FRS.

1. Can they opt back into the FRS? If so, what would be their enrollment date?
2. Once they are moved out of the IMCA, when does their service credit start? Would it be based on the date they are no longer eligible for the annuity plan or from the date they were elected?
3. How long do they have to make an election?
4. What plan would they be enrolled in before they opted out of the FRS?

I would greatly appreciate any help you can give me in this matter.

Thank You,

Sarah Taber  
Benefits Specialist  
Escambia County Board of County Commissioners  
Office: 850-595-0828  
221 Palafox Place, Suite 200  
Pensacola, FL 32502

[[cid:image001.png@01D80243.928E8DF0](#)]

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