

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT  
IN AND FOR ESCAMBIA COUNTY, FLORIDA**

**ESCAMBIA COUNTY,**

**Petitioner,**

**v.**

**Case No. 2022-CA-0141**

**PAM CHILDERS, Clerk of the Circuit Court  
and Comptroller for Escambia County,**

**Respondent.**

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**ORDER DENYING RESPONDENT’S AMENDED MOTION FOR PARTIAL  
SUMMARY JUDGMENT ON THE INTERPRETATION OF SECTION 121.182,  
FLORIDA STATUTES**

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**THIS CAUSE** is before the Court on “[Respondent’s] Amended Motion for Partial Summary Judgment on the Interpretation of Section 121.182, Florida Statutes and Memorandum in Support” (Amended Motion), filed on September 28, 2022, pursuant to Florida Rule of Civil Procedure 1.510. Also before the Court is “The County’s Opposition to the Clerk’s Motion for Partial Summary Judgment Regarding Fla. Stat. §121.182,” filed by Petitioner on November 11, 2022, and Respondent’s “Reply to the County’s Opposition to the Clerk’s Motion for Partial Summary Judgment Regarding the Interpretation of Section 121.182, Florida Statutes,” filed on December 14, 2022. Having considered the Amended Motion and the other filings of the parties, record, and applicable law, the Court finds as follows:

**Amended Motion**

Respondent requests the Court to enter a partial summary judgment “on the interpretation of Section 121.182, Florida Statutes.” Respondent states that Plaintiff “points to one and only one statute as authorizing the compensation to three commissioners that is the subject of this

litigation; i.e., Florida Statutes Section 121.182.” Respondent requests the Court to grant partial summary judgment determining the following:

A. “The fifth sentence of Section 121.182, Florida Statutes, must be read in whole” so that “the first sixteen words” are “inexorable [sic] linked to the last ten words” of the sentence.

B. The statute “authorizes counties to invest funds, purchase annuities, or provide local supplemental retirement programs ‘for purposes of providing annuities for city or county personnel.’”

C. “County ‘personnel’ and the ‘annuities’ as set forth in the fifth sentence of Section 121.182, Florida Statutes, are those more particularly described, and limited, in the first four sentences of Section 121.182, Florida Statutes.”

D. “Any other relief that this Court deems equitable and just.”

#### **Legal Authority**

Florida Rule of Civil Procedure 1.510(a) provides for a party to move for summary judgment or partial summary judgment. “The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fla. R. Civ. P. 1.510(a). “Genuine disputes are those in which the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” Ibarra v. Ross Dress for Less, Inc., 350 So. 3d 465, 467 (Fla. 3d DCA 2022) (quotations omitted). “A factual dispute is ‘material’ when it may affect the outcome of the case under the applicable substantive law.” Star Cas. Ins. Co. v. Gables Ins. Recovery, Inc., 346 So. 3d 1244, 1246 (Fla. 3d DCA 2022). “[S]ummary judgment must be denied if the evidence on an issue of material fact is disputed.” Clampitt v. Wick, 320 So. 3d 826, 833 (Fla. 2d DCA 2021).

## Discussion

The text of section 121.182, Florida Statutes, is set forth as follows:

Municipalities and counties are authorized to purchase annuities for all municipal and county personnel with 25 or more years of creditable service who have reached age 50 and have applied for retirement under the Florida Retirement System. No such annuity shall provide for more than the total difference in retirement income between the retirement benefit based on average monthly compensation and creditable service as of the member's early retirement date and the early retirement benefit. Municipalities and counties may also purchase annuities for members of the Florida Retirement System who have out-of-state service in another state or country which is documented as valid by the appropriate city or county. Such annuities may be based on no more than 5 years of out-of-state service and may equal, but not exceed, the benefits that would be payable under the Florida Retirement System if credit for out-of-state service was authorized under that system. Municipalities and counties are authorized to invest funds, purchase annuities, or provide local supplemental retirement programs for purposes of providing annuities for city or county personnel. All retirement annuities shall comply with s. 14, Art. X of the State Constitution.

The relief requested by Respondent as set forth in "A" and "B" in the Amended Motion essentially constitutes a request for this Court to determine that the statute is quoted correctly. The Court declines to grant partial summary judgment regarding "A" and "B." Further, partial summary judgment is not appropriate regarding request "D."

As to request "C" of the Amended Motion, there is a genuine dispute as to the material<sup>1</sup> fact of how section 121.182 should be interpreted or applied to the underlying issues in this case.

In reaching this decision, this Court has considered some other Florida statutes that concern local supplemental retirement programs.<sup>2</sup> For example, the language of section 1012.685

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<sup>1</sup> A determination on the controlling interpretation of the statute is material to the outcome of this mandamus action.

<sup>2</sup> "[S]tatutes which relate to the same or closely related subjects should be read in *pari materia*." State v. Fuchs, 769 So. 2d 1006, 1009 (Fla. 2000). "[J]udges must exhaust all the textual and structural clues that bear on the meaning of a disputed text." Conage v. United States, 346 So. 3d 594, 598 (Fla. 2022) (quotations omitted). "It would be a mistake to think that our law of statutory interpretation requires interpreters to make a threshold determination of whether a term has a 'plain' or 'clear' meaning in isolation, without considering the statutory context and without the aid of whatever canons might shed light on the interpretive issues in dispute." Id.

is strikingly similar to the language of section 121.182. However, section 1012.685 is set forth in *four numbered paragraphs* instead of one paragraph like section 121.182. Section 1012.685 took effect in 2003,<sup>3</sup> whereas section 121.182 is older, having become effective in 1996.<sup>4</sup> Notably, the predecessor of section 1012.685 was section 231.495.<sup>5</sup> Section 231.495 had been structured as *one* paragraph, but in 2000 it was amended and *set forth in four numbered paragraphs*.<sup>6</sup>

The structural clues embodied in the enumerated, four-paragraph structure of section 1012.685 suggest an interpretation of section 121.182 that is contrary to Respondent's proposed interpretation.

However, another example of a statute concerning the same or similar subject matter is section 155.45, which was enacted in 1988<sup>7</sup> and concerns local supplemental retirement programs. Section 155.45 was enacted with a one-paragraph structure. However, it has not been amended and retains its one-paragraph structure.

Based on these circumstances, granting partial summary judgment is not appropriate.

### **Ruling**

Therefore, it is **ORDERED AND ADJUDGED** that Respondent's Amended Motion is **DENIED**.

**DONE AND ORDERED** in Chambers, Fort Walton Beach, Okaloosa County, Florida.

WFS/ccb



eSigned by CIRCUIT JUDGE WILLIAM STONE  
on 08/23/2023 15:54:48 3wNsIKDD

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<sup>3</sup> 2002 Fla. Sess. Law Serv. 2002-387 (West).

<sup>4</sup> 1996 Fla. Sess. Law Serv. 96-368 (West).

<sup>5</sup> 1989 Fla. Sess. Law Serv. 89-310 (West). Section 231.495 was repealed upon the enactment of section 1012.685. See 2002 Fla. Sess. Law Serv. 2002-387 (West).

<sup>6</sup> 2000 Fla. Sess. Law Serv. 2000-301 (West).

<sup>7</sup> 1988 Fla. Sess. Law Serv. 88-77 (West).