

By Senator Futch

18-1098-02

See HB

1 A bill to be entitled
 2 An act relating to retirement; creating the
 3 "Officer Malcolm Thompson Act"; providing
 4 legislative intent; amending s. 121.091, F.S.;
 5 revising provisions relating to benefits
 6 payable for total and permanent disability for
 7 certain Special Risk Class members of the
 8 Florida Retirement System who are injured in
 9 the line of duty; providing for reemployment of
 10 retired deputy sheriffs; amending ss. 175.191
 11 and 185.18, F.S.; providing minimum retirement
 12 benefits payable to certain Special Risk Class
 13 members who are injured in the line of duty and
 14 who are totally and permanently disabled due to
 15 such injury; providing an effective date.

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

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 19 Section 1. Short title.--This act may be cited as the
 20 "Officer Malcolm Thompson Act."

21 Section 2. It is declared by the Legislature that
 22 firefighters, paramedics, emergency medical technicians, and
 23 police officers, as defined in this act, perform state and
 24 municipal functions; that it is their duty to protect life and
 25 property at their own risk and peril; that it is their duty to
 26 continuously instruct school personnel, public officials, and
 27 private citizens about safety; and that their activities are
 28 vital to the public safety. Therefore, the Legislature
 29 declares that it is a proper and legitimate state purpose to
 30 provide a uniform retirement system for the benefit of
 31 firefighters, paramedics, emergency medical technicians, and

1 police officers as defined in this act and intends, in
2 implementing the provisions of s. 14, Art. X of the State
3 Constitution as they relate to municipal and special district
4 pension trust fund systems and plans, that such retirement
5 systems or plans be managed, administered, operated, and
6 funded in such manner as to maximize the protection of pension
7 trust funds. Pursuant to s. 18, Art. VII of the State
8 Constitution, the Legislature hereby determines and declares
9 that the provisions of this act fulfill an important state
10 interest.

11 Section 3. Paragraph (b) of subsection (4) and
12 paragraph (b) of subsection (9) of section 121.091, Florida
13 Statutes, are amended to read:

14 121.091 Benefits payable under the system.--Benefits
15 may not be paid under this section unless the member has
16 terminated employment as provided in s. 121.021(39)(a) or
17 begun participation in the Deferred Retirement Option Program
18 as provided in subsection (13), and a proper application has
19 been filed in the manner prescribed by the department. The
20 department may cancel an application for retirement benefits
21 when the member or beneficiary fails to timely provide the
22 information and documents required by this chapter and the
23 department's rules. The department shall adopt rules
24 establishing procedures for application for retirement
25 benefits and for the cancellation of such application when the
26 required information or documents are not received.

27 (4) DISABILITY RETIREMENT BENEFIT.--

28 (b) Total and permanent disability.--A member shall be
29 considered totally and permanently disabled if, in the opinion
30 of the administrator, he or she is prevented, by reason of a
31 medically determinable physical or mental impairment, from

1 rendering useful and efficient service as an officer or
2 employee. A Special Risk Class member who is an officer as
3 defined in s. 943.10(1), (2), or (3); a firefighter as defined
4 in s. 633.30(1); an emergency medical technician as defined in
5 s. 401.23(11); or a paramedic as defined in s. 401.23(17) who
6 is catastrophically injured as defined in s. 440.02(37) in the
7 line of duty as a result of a felonious act of another shall
8 be considered totally and permanently disabled and unable to
9 render useful and efficient service as an officer, unless the
10 administrator can provide documented competent medical
11 evidence that the officer is able to render useful and
12 efficient service as an officer. For purposes of this
13 subsection, the term "officer" includes police officers,
14 correctional officers, correctional probation officers,
15 firefighters, emergency medical technicians, and paramedics.

16 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--
17 (b)1. Any person who is retired under this chapter,
18 except under the disability retirement provisions of
19 subsection (4), may be reemployed by any private or public
20 employer after retirement and receive retirement benefits and
21 compensation from his or her employer without any limitations,
22 except that a person may not receive both a salary from
23 reemployment with any agency participating in the Florida
24 Retirement System and retirement benefits under this chapter
25 for a period of 12 months immediately subsequent to the date
26 of retirement. However, a DROP participant shall continue
27 employment and receive a salary during the period of
28 participation in the Deferred Retirement Option Program, as
29 provided in subsection (13).

30 2. Any person to whom the limitation in subparagraph
31 1. applies who violates such reemployment limitation and who

1 is reemployed with any agency participating in the Florida
2 Retirement System before completion of the 12-month limitation
3 period shall give timely notice of this fact in writing to the
4 employer and to the division and shall have his or her
5 retirement benefits suspended for the balance of the 12-month
6 limitation period. Any person employed in violation of this
7 paragraph and any employing agency which knowingly employs or
8 appoints such person without notifying the Division of
9 Retirement to suspend retirement benefits shall be jointly and
10 severally liable for reimbursement to the retirement trust
11 fund of any benefits paid during the reemployment limitation
12 period. To avoid liability, such employing agency shall have
13 a written statement from the retiree that he or she is not
14 retired from a state-administered retirement system. Any
15 retirement benefits received while reemployed during this
16 reemployment limitation period shall be repaid to the
17 retirement trust fund, and retirement benefits shall remain
18 suspended until such repayment has been made. Benefits
19 suspended beyond the reemployment limitation shall apply
20 toward repayment of benefits received in violation of the
21 reemployment limitation.

22 3. A district school board may reemploy a retired
23 member as a substitute or hourly teacher, education
24 paraprofessional, transportation assistant, bus driver, or
25 food service worker on a noncontractual basis after he or she
26 has been retired for 1 calendar month, in accordance with s.
27 121.021(39). Any retired member who is reemployed within 1
28 calendar month after retirement shall void his or her
29 application for retirement benefits. District school boards
30 reemploying such teachers, education paraprofessionals,
31 transportation assistants, bus drivers, or food service

1 workers are subject to the retirement contribution required by
2 subparagraph 8.7-Reemployment of a retired member as a
3 substitute or hourly teacher, education paraprofessional,
4 transportation assistant, bus driver, or food service worker
5 is limited to 780 hours during the first 12 months of his or
6 her retirement. Any retired member reemployed for more than
7 780 hours during his or her first 12 months of retirement
8 shall give timely notice in writing to the employer and to the
9 division of the date he or she will exceed the limitation.
10 The division shall suspend his or her retirement benefits for
11 the remainder of the first 12 months of retirement. Any
12 person employed in violation of this subparagraph and any
13 employing agency which knowingly employs or appoints such
14 person without notifying the Division of Retirement to suspend
15 retirement benefits shall be jointly and severally liable for
16 reimbursement to the retirement trust fund of any benefits
17 paid during the reemployment limitation period. To avoid
18 liability, such employing agency shall have a written
19 statement from the retiree that he or she is not retired from
20 a state-administered retirement system. Any retirement
21 benefits received by a retired member while reemployed in
22 excess of 780 hours during the first 12 months of retirement
23 shall be repaid to the Retirement System Trust Fund, and his
24 or her retirement benefits shall remain suspended until
25 repayment is made. Benefits suspended beyond the end of the
26 retired member's first 12 months of retirement shall apply
27 toward repayment of benefits received in violation of the
28 780-hour reemployment limitation.

29 4. A community college board of trustees may reemploy
30 a retired member as an adjunct instructor, that is, an
31 instructor who is noncontractual and part-time, or as a

1 participant in a phased retirement program within the Florida
2 Community College System, after he or she has been retired for
3 1 calendar month, in accordance with s. 121.021(39). Any
4 retired member who is reemployed within 1 calendar month after
5 retirement shall void his or her application for retirement
6 benefits. Boards of trustees reemploying such instructors are
7 subject to the retirement contribution required in
8 subparagraph 8.7. A retired member may be reemployed as an
9 adjunct instructor for no more than 780 hours during the first
10 12 months of retirement. Any retired member reemployed for
11 more than 780 hours during the first 12 months of retirement
12 shall give timely notice in writing to the employer and to the
13 division of the date he or she will exceed the limitation.
14 The division shall suspend his or her retirement benefits for
15 the remainder of the first 12 months of retirement. Any
16 person employed in violation of this subparagraph and any
17 employing agency which knowingly employs or appoints such
18 person without notifying the Division of Retirement to suspend
19 retirement benefits shall be jointly and severally liable for
20 reimbursement to the retirement trust fund of any benefits
21 paid during the reemployment limitation period. To avoid
22 liability, such employing agency shall have a written
23 statement from the retiree that he or she is not retired from
24 a state-administered retirement system. Any retirement
25 benefits received by a retired member while reemployed in
26 excess of 780 hours during the first 12 months of retirement
27 shall be repaid to the Retirement System Trust Fund, and
28 retirement benefits shall remain suspended until repayment is
29 made. Benefits suspended beyond the end of the retired
30 member's first 12 months of retirement shall apply toward
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1 repayment of benefits received in violation of the 780-hour
2 reemployment limitation.

3 5. The State University System may reemploy a retired
4 member as an adjunct faculty member or as a participant in a
5 phased retirement program within the State University System
6 after the retired member has been retired for 1 calendar
7 month, in accordance with s. 121.021(39). Any retired member
8 who is reemployed within 1 calendar month after retirement
9 shall void his or her application for retirement benefits.
10 The State University System is subject to the retired
11 contribution required in subparagraph 8.7, as appropriate. A
12 retired member may be reemployed as an adjunct faculty member
13 or a participant in a phased retirement program for no more
14 than 780 hours during the first 12 months of his or her
15 retirement. Any retired member reemployed for more than 780
16 hours during the first 12 months of retirement shall give
17 timely notice in writing to the employer and to the division
18 of the date he or she will exceed the limitation. The
19 division shall suspend his or her retirement benefits for the
20 remainder of the first 12 months of retirement. Any person
21 employed in violation of this subparagraph and any employing
22 agency which knowingly employs or appoints such person without
23 notifying the Division of Retirement to suspend retirement
24 benefits shall be jointly and severally liable for
25 reimbursement to the retirement trust fund of any benefits
26 paid during the reemployment limitation period. To avoid
27 liability, such employing agency shall have a written
28 statement from the retiree that he or she is not retired from
29 a state-administered retirement system. Any retirement
30 benefits received by a retired member while reemployed in
31 excess of 780 hours during the first 12 months of retirement

1 shall be repaid to the Retirement System Trust Fund, and
2 retirement benefits shall remain suspended until repayment is
3 made. Benefits suspended beyond the end of the retired
4 member's first 12 months of retirement shall apply toward
5 repayment of benefits received in violation of the 780-hour
6 reemployment limitation.

7 6. The Board of Trustees of the Florida School for the
8 Deaf and the Blind may reemploy a retired member as a
9 substitute teacher, substitute residential instructor, or
10 substitute nurse on a noncontractual basis after he or she has
11 been retired for 1 calendar month, in accordance with s.
12 121.021(39). Any retired member who is reemployed within 1
13 calendar month after retirement shall void his or her
14 application for retirement benefits. The Board of Trustees of
15 the Florida School for the Deaf and the Blind reemploying such
16 teachers, residential instructors, or nurses is subject to the
17 retirement contribution required by subparagraph 8.7.
18 Reemployment of a retired member as a substitute teacher,
19 substitute residential instructor, or substitute nurse is
20 limited to 780 hours during the first 12 months of his or her
21 retirement. Any retired member reemployed for more than 780
22 hours during the first 12 months of retirement shall give
23 timely notice in writing to the employer and to the division
24 of the date he or she will exceed the limitation. The division
25 shall suspend his or her retirement benefits for the remainder
26 of the first 12 months of retirement. Any person employed in
27 violation of this subparagraph and any employing agency which
28 knowingly employs or appoints such person without notifying
29 the Division of Retirement to suspend retirement benefits
30 shall be jointly and severally liable for reimbursement to the
31 retirement trust fund of any benefits paid during the

1 reemployment limitation period. To avoid liability, such
2 employing agency shall have a written statement from the
3 retiree that he or she is not retired from a
4 state-administered retirement system. Any retirement benefits
5 received by a retired member while reemployed in excess of 780
6 hours during the first 12 months of retirement shall be repaid
7 to the Retirement System Trust Fund, and his or her retirement
8 benefits shall remain suspended until payment is made.
9 Benefits suspended beyond the end of the retired member's
10 first 12 months of retirement shall apply toward repayment of
11 benefits received in violation of the 780-hour reemployment
12 limitation.

13 7. A sheriff may reemploy a retired member as a deputy
14 sheriff on a contractual basis after the retired member has
15 been retired for 1 calendar month, in accordance with s.
16 121.021(39). Any retired member who is reemployed within 1
17 calendar month after retirement shall void his or her
18 application for retirement benefits. Sheriffs reemploying such
19 deputy sheriffs are subject to the retirement contribution
20 required in subparagraph 8. Reemployment of a retired deputy
21 sheriff is limited to no more than 780 hours during the first
22 12 months of his or her retirement. Any retired member
23 reemployed for more than 780 hours during the first 12 months
24 of retirement shall give timely notice in writing to the
25 employer and to the division of the date he or she will exceed
26 the limitation. The division shall suspend his or her
27 retirement benefits for the remainder of the first 12 months
28 of retirement. Any person employed in violation of this
29 subparagraph and any employing agency that knowingly employs
30 or appoints such person without notifying the Division of
31 Retirement to suspend retirement benefits shall be jointly and

1 severally liable for reimbursement to the retirement trust
2 fund of any benefits paid during the reemployment limitation
3 period. To avoid liability, such employing agency shall have a
4 written statement from the retiree that he or she is not
5 retired from a state-administered retirement system. Any
6 retirement benefits received by a retired member while
7 reemployed in excess of 780 hours during the first 12 months
8 of retirement shall be repaid to the Retirement System Trust
9 Fund, and retirement benefits shall remain suspended until
10 repayment is made. Benefits suspended beyond the end of the
11 retired member's first 12 months of retirement shall apply
12 toward repayment of benefits received in violation of the
13 780-hour reemployment limitation.

14 ~~8.7.~~ The employment by an employer of any retiree or
15 DROP participant of any state-administered retirement system
16 shall have no effect on the average final compensation or
17 years of creditable service of the retiree or DROP
18 participant. Prior to July 1, 1991, upon employment of any
19 person, other than an elected officer as provided in s.
20 121.053, who has been retired under any state-administered
21 retirement program, the employer shall pay retirement
22 contributions in an amount equal to the unfunded actuarial
23 liability portion of the employer contribution which would be
24 required for regular members of the Florida Retirement System.
25 Effective July 1, 1991, contributions shall be made as
26 provided in s. 121.122 for retirees with renewed membership or
27 subsection (13) with respect to DROP participants.

28 ~~9.8.~~ Any person who has previously retired and who is
29 holding an elective public office or an appointment to an
30 elective public office eligible for the Elected Officers'
31 Class on or after July 1, 1990, shall be enrolled in the

1 Florida Retirement System as provided in s. 121.053(1)(b) or,
2 if holding an elective public office that does not qualify for
3 the Elected Officers' Class on or after July 1, 1991, shall be
4 enrolled in the Florida Retirement System as provided in s.
5 121.122, and shall continue to receive retirement benefits as
6 well as compensation for the elected officer's service for as
7 long as he or she remains in elective office. However, any
8 retired member who served in an elective office prior to July
9 1, 1990, suspended his or her retirement benefit, and had his
10 or her Florida Retirement System membership reinstated shall,
11 upon retirement from such office, have his or her retirement
12 benefit recalculated to include the additional service and
13 compensation earned.

14 ~~10.9.~~ Any person who is holding an elective public
15 office which is covered by the Florida Retirement System and
16 who is concurrently employed in nonelected covered employment
17 may elect to retire while continuing employment in the
18 elective public office, provided that he or she shall be
19 required to terminate his or her nonelected covered
20 employment. Any person who exercises this election shall
21 receive his or her retirement benefits in addition to the
22 compensation of the elective office without regard to the time
23 limitations otherwise provided in this subsection. No person
24 who seeks to exercise the provisions of this subparagraph, as
25 the same existed prior to May 3, 1984, shall be deemed to be
26 retired under those provisions, unless such person is eligible
27 to retire under the provisions of this subparagraph, as
28 amended by chapter 84-11, Laws of Florida.

29 ~~11.10.~~ The limitations of this paragraph apply to
30 reemployment in any capacity with an "employer" as defined in
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1 s. 121.021(10), irrespective of the category of funds from
2 which the person is compensated.

3 Section 4. Subsection (5) of section 175.191, Florida
4 Statutes, is amended to read:

5 175.191 Disability retirement.--For any municipality,
6 special fire control district, chapter plan, local law
7 municipality, local law special fire control district, or
8 local law plan under this chapter:

9 (5) The benefit payable to a firefighter who retires
10 from the service of a municipality or special fire control
11 district due to total and permanent disability as a direct
12 result of a disability is the monthly income payable for 10
13 years certain and life for which, if the firefighter's
14 disability occurred in the line of duty, his or her monthly
15 benefit shall be the accrued retirement benefit, but shall not
16 be less than 42 percent of his or her average monthly salary
17 at the time of disability. If after 10 years of service the
18 disability is other than in the line of duty, the
19 firefighter's monthly benefit shall be the accrued normal
20 retirement benefit, but shall not be less than 25 percent of
21 his or her average monthly salary at the time of disability.
22 Notwithstanding any provision to the contrary, the monthly
23 retirement benefit payable to a firefighter, emergency medical
24 technician, or paramedic who retires from service due to total
25 and permanent disability as a result of a catastrophic injury
26 as defined in s. 440.02(37) where such injury is a result of a
27 felonious act of another shall be the accrued retirement
28 benefit but shall not be less than 80 percent of his or her
29 average monthly salary at the time of disability.

30 Section 5. Subsection (5) of section 185.18, Florida
31 Statutes, is amended to read:

1 185.18 Disability retirement.--For any municipality,
2 chapter plan, local law municipality, or local law plan under
3 this chapter:

4 (5) The benefit payable to a police officer who
5 retires from the service of the city with a total and
6 permanent disability as a result of a disability is the
7 monthly income payable for 10 years certain and life for
8 which, if the police officer's disability occurred in the line
9 of duty, his or her monthly benefit shall be the accrued
10 retirement benefit, but shall not be less than 42 percent of
11 his or her average monthly compensation as of the police
12 officer's disability retirement date. If after 10 years of
13 service the disability is other than in the line of duty, the
14 police officer's monthly benefit shall be the accrued normal
15 retirement benefit, but shall not be less than 25 percent of
16 his or her average monthly compensation as of the police
17 officer's disability retirement date. Notwithstanding any
18 provision to the contrary, the monthly retirement benefit
19 payable to a police officer who retires from service due to
20 total and permanent disability as a result of a catastrophic
21 injury as defined in s. 440.02(37) where such injury is a
22 result of a felonious act of another shall be the accrued
23 retirement benefit but shall not be less than 80 percent of
24 the officer's average monthly compensation as of the officer's
25 disability retirement date.

26 Section 6. This act shall take effect upon becoming a
27 law.

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LEGISLATIVE SUMMARY

Creates the Officer Malcolm Thompson Act to provide that a Special Risk Class member of the Florida Retirement System who is an officer, an emergency medical technician, or a paramedic who is catastrophically injured in the line of duty as the result of a felonious act of another shall be considered totally and permanently disabled, unless the administrator can provide documented competent medical evidence that the officer is able to render useful and efficient service as an officer, and to provide that the term "officer" includes police officers, correctional officers, correctional probation officers, firefighters, emergency medical technicians, and paramedics. Provides minimum retirement benefits payable to described Special Risk Class members who are injured in the line of duty and who are totally and permanently disabled due to such injury. Provides for reemployment of retired deputy sheriffs. (See bill for details.)