

By the Committee on Governmental Oversight and Productivity;
and Senator Futch

302-2294-02

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 and firefighters or
11 paramedics; amending ss. 175.191, 185.18, F.S.;
12 providing minimum retirement benefits payable
13 to certain Special Risk Class members who are
14 injured in the line of duty and who are totally
15 and permanently disabled due to such injury;
16 providing for contribution rate increases to
17 fund benefits provided in s. 121.091, F.S., as
18 amended; directing the Division of Statutory
19 Revision to adjust contribution rates set forth
20 in s. 121.071, F.S.; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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

27 Section 2. It is declared by the Legislature that
28 firefighters, paramedics, emergency medical technicians, and
29 police officers, as defined in this act, perform state and
30 municipal functions; that it is their duty to protect life and
31 property at their own risk and peril; that it is their duty to

1 continuously instruct school personnel, public officials, and
2 private citizens about safety; and that their activities are
3 vital to the public safety. Therefore, the Legislature
4 declares that it is a proper and legitimate state purpose to
5 provide a uniform retirement system for the benefit of
6 firefighters, paramedics, emergency medical technicians, and
7 police officers as defined in this act and intends, in
8 implementing the provisions of Section 14, Article X of the
9 State Constitution as they relate to municipal and special
10 district pension trust fund systems and plans, that such
11 retirement systems or plans be managed, administered,
12 operated, and funded in such manner as to maximize the
13 protection of pension trust funds. Pursuant to Section 18,
14 Article VII of the State Constitution, the Legislature hereby
15 determines and declares that the provisions of this act
16 fulfill an important state interest.

17 Section 3. Paragraph (b) of subsection (4) and
18 paragraph (b) of subsection (9) of section 121.091, Florida
19 Statutes, are amended to read:

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

3 (4) DISABILITY RETIREMENT BENEFIT.--

4 (b) Total and permanent disability.--A member shall be
5 considered totally and permanently disabled if, in the opinion
6 of the administrator, he or she is prevented, by reason of a
7 medically determinable physical or mental impairment, from
8 rendering useful and efficient service as an officer or
9 employee. A Special Risk Class member who is an officer as
10 defined in s. 943.10(1), (2), or (3); a firefighter as defined
11 in s. 633.30(1); an emergency medical technician as defined in
12 s. 401.23(11); or a paramedic as defined in s. 401.23(17) who
13 is catastrophically injured as defined in s. 440.02(37) in the
14 line of duty as a result of a felonious act of another shall
15 be considered totally and permanently disabled and unable to
16 render useful and efficient service as an officer, unless the
17 administrator can provide documented competent medical
18 evidence that the officer is able to render useful and
19 efficient service as an employee.

20 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

21 (b)1. Any person who is retired under this chapter,
22 except under the disability retirement provisions of
23 subsection (4), may be reemployed by any private or public
24 employer after retirement and receive retirement benefits and
25 compensation from his or her employer without any limitations,
26 except that a person may not receive both a salary from
27 reemployment with any agency participating in the Florida
28 Retirement System and retirement benefits under this chapter
29 for a period of 12 months immediately subsequent to the date
30 of retirement. However, a DROP participant shall continue
31 employment and receive a salary during the period of

1 participation in the Deferred Retirement Option Program, as
2 provided in subsection (13).

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

26 3. A district school board may reemploy a retired
27 member as a substitute or hourly teacher, education
28 paraprofessional, transportation assistant, bus driver, or
29 food service worker on a noncontractual basis after he or she
30 has been retired for 1 calendar month, in accordance with s.
31 121.021(39). Any retired member who is reemployed within 1

1 calendar month after retirement shall void his or her
2 application for retirement benefits. District school boards
3 reemploying such teachers, education paraprofessionals,
4 transportation assistants, bus drivers, or food service
5 workers are subject to the retirement contribution required by
6 subparagraph 8.7-Reemployment of a retired member as a
7 substitute or hourly teacher, education paraprofessional,
8 transportation assistant, bus driver, or food service worker
9 is limited to 780 hours during the first 12 months of his or
10 her retirement. Any retired member reemployed for more than
11 780 hours during his or her 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 his
28 or her retirement benefits shall remain suspended until
29 repayment is made. Benefits suspended beyond the end of the
30 retired member's first 12 months of retirement shall apply
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1 toward repayment of benefits received in violation of the
2 780-hour reemployment limitation.

3 4. A community college board of trustees may reemploy
4 a retired member as an adjunct instructor, that is, an
5 instructor who is noncontractual and part-time, or as a
6 participant in a phased retirement program within the Florida
7 Community College System, after he or she has been retired for
8 1 calendar month, in accordance with s. 121.021(39). Any
9 retired member who is reemployed within 1 calendar month after
10 retirement shall void his or her application for retirement
11 benefits. Boards of trustees reemploying such instructors are
12 subject to the retirement contribution required in
13 subparagraph 8.7-A retired member may be reemployed as an
14 adjunct instructor for no more than 780 hours during the first
15 12 months of retirement. Any retired member reemployed for
16 more than 780 hours during the first 12 months of retirement
17 shall give timely notice in writing to the employer and to the
18 division of the date he or she will exceed the limitation.
19 The division shall suspend his or her retirement benefits for
20 the remainder of the first 12 months of retirement. Any
21 person employed in violation of this subparagraph and any
22 employing agency which knowingly employs or appoints such
23 person without notifying the Division of Retirement to suspend
24 retirement 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 5. The State University System may reemploy a retired
8 member as an adjunct faculty member or as a participant in a
9 phased retirement program within the State University System
10 after the retired member has been retired for 1 calendar
11 month, in accordance with s. 121.021(39). Any retired member
12 who is reemployed within 1 calendar month after retirement
13 shall void his or her application for retirement benefits.
14 The State University System is subject to the retired
15 contribution required in subparagraph 8.7-, as appropriate. A
16 retired member may be reemployed as an adjunct faculty member
17 or a participant in a phased retirement program for no more
18 than 780 hours during the first 12 months of his or her
19 retirement. Any retired member reemployed for more than 780
20 hours during the first 12 months of retirement shall give
21 timely notice in writing to the employer and to the division
22 of the date he or she will exceed the limitation. The
23 division shall suspend his or her retirement benefits for the
24 remainder of the first 12 months of retirement. Any person
25 employed in violation of this subparagraph and any employing
26 agency which knowingly employs or appoints such person without
27 notifying the Division of Retirement to suspend retirement
28 benefits shall be jointly and severally liable for
29 reimbursement to the retirement trust fund of any benefits
30 paid during the reemployment limitation period. To avoid
31 liability, such employing agency shall have a written

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

11 6. The Board of Trustees of the Florida School for the
12 Deaf and the Blind may reemploy a retired member as a
13 substitute teacher, substitute residential instructor, or
14 substitute nurse on a noncontractual basis after he or she 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. The Board of Trustees of
19 the Florida School for the Deaf and the Blind reemploying such
20 teachers, residential instructors, or nurses is subject to the
21 retirement contribution required by subparagraph 8.7.
22 Reemployment of a retired member as a substitute teacher,
23 substitute residential instructor, or substitute nurse is
24 limited to 780 hours during the first 12 months of his or her
25 retirement. Any retired member reemployed for more than 780
26 hours during the first 12 months of retirement shall give
27 timely notice in writing to the employer and to the division
28 of the date he or she will exceed the limitation. The division
29 shall suspend his or her retirement benefits for the remainder
30 of the first 12 months of retirement. Any person employed in
31 violation of this subparagraph and any employing agency which

1 knowingly employs or appoints such person without notifying
2 the Division of Retirement to suspend retirement benefits
3 shall be jointly and severally liable for reimbursement to the
4 retirement trust fund of any benefits paid during the
5 reemployment limitation period. To avoid liability, such
6 employing agency shall have a written statement from the
7 retiree that he or she is not retired from a
8 state-administered retirement system. Any retirement benefits
9 received by a retired member while reemployed in excess of 780
10 hours during the first 12 months of retirement shall be repaid
11 to the Retirement System Trust Fund, and his or her retirement
12 benefits shall remain suspended until payment is made.
13 Benefits suspended beyond the end of the retired member's
14 first 12 months of retirement shall apply toward repayment of
15 benefits received in violation of the 780-hour reemployment
16 limitation.

17 7. A sheriff may reemploy a retired member as a deputy
18 sheriff after the retired member has been retired for 1
19 calendar month, in accordance with s. 121.021(39). Any retired
20 member who is reemployed within 1 calendar month after
21 retirement shall void his or her application for retirement
22 benefits. Sheriffs reemploying such deputy sheriffs are
23 subject to the retirement contribution required in
24 subparagraph 8. Reemployment of a retired deputy sheriff is
25 limited to no more than 780 hours during the first 12 months
26 of his or her retirement. Any retired member reemployed for
27 more than 780 hours during the first 12 months of retirement
28 shall give timely notice in writing to the employer and to the
29 division of the date he or she will exceed the limitation. The
30 division shall suspend his or her retirement benefits for the
31 remainder of the first 12 months of retirement. Any person

1 employed in violation of this subparagraph and any employing
2 agency that knowingly employs or appoints such person without
3 notifying the Division of Retirement to suspend retirement
4 benefits shall be jointly and severally liable for
5 reimbursement to the retirement trust fund of any benefits
6 paid during the reemployment limitation period. To avoid
7 liability, such employing agency must have a written statement
8 from the retiree that he or she is not retired from a
9 state-administered retirement system. Any retirement benefits
10 received by a retired member while reemployed in excess of 780
11 hours during the first 12 months of retirement shall be repaid
12 to the Retirement System Trust Fund, and retirement benefits
13 shall remain suspended until repayment is made. Benefits
14 suspended beyond the end of the retired member's first 12
15 months of retirement shall apply toward repayment of benefits
16 received in violation of the 780-hour reemployment limitation.

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

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1 9.8. Any person who has previously retired and who is
2 holding an elective public office or an appointment to an
3 elective public office eligible for the Elected Officers'
4 Class on or after July 1, 1990, shall be enrolled in the
5 Florida Retirement System as provided in s. 121.053(1)(b) or,
6 if holding an elective public office that does not qualify for
7 the Elected Officers' Class on or after July 1, 1991, shall be
8 enrolled in the Florida Retirement System as provided in s.
9 121.122, and shall continue to receive retirement benefits as
10 well as compensation for the elected officer's service for as
11 long as he or she remains in elective office. However, any
12 retired member who served in an elective office prior to July
13 1, 1990, suspended his or her retirement benefit, and had his
14 or her Florida Retirement System membership reinstated shall,
15 upon retirement from such office, have his or her retirement
16 benefit recalculated to include the additional service and
17 compensation earned.

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

3 ~~11.10.~~ The limitations of this paragraph apply to
4 reemployment in any capacity with an "employer" as defined in
5 s. 121.021(10), irrespective of the category of funds from
6 which the person is compensated.

7 12. An employing agency may reemploy a retired member
8 as a firefighter or paramedic after the retired member has
9 been retired for 1 calendar month, in accordance with s.
10 121.021(39). Any retired member who is reemployed within 1
11 calendar month after retirement shall void his or her
12 application for retirement benefits. Employing agencies
13 reemploying such firefighters or paramedics are subject to the
14 retirement contribution required in subparagraph 8.

15 Reemployment of a retired firefighter or paramedic is limited
16 to no more than 780 hours during the first 12 months of his or
17 her retirement. Any retired member reemployed for more than
18 780 hours during the first 12 months of retirement shall give
19 timely notice in writing to the employer and to the division
20 of the date he or she will exceed the limitation. The division
21 shall suspend his or her retirement benefits for the remainder
22 of the first 12 months of retirement. A person employed in
23 violation of this subparagraph and an employing agency that
24 knowingly employs or appoints such person without notifying
25 the Division of Retirement to suspend retirement benefits
26 shall be jointly and severally liable for reimbursement to the
27 retirement trust fund of any benefits paid during the
28 reemployment limitation period. To avoid liability, such
29 employing agency must have a written statement from the
30 retiree that he or she is not retired from a
31 state-administered retirement system. Any retirement benefits

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

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

10 175.191 Disability retirement.--For any municipality,
11 special fire control district, chapter plan, local law
12 municipality, local law special fire control district, or
13 local law plan under this chapter:

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

1 such injury is a result of a felonious act of another shall be
2 the accrued retirement benefit but shall not be less than 80
3 percent of his or her average monthly salary at the time of
4 disability.

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

7 185.18 Disability retirement.--For any municipality,
8 chapter plan, local law municipality, or local law plan under
9 this chapter:

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

1 Section 6. Effective July 1, 2002, in order to fund
2 the benefits provided in section 121.091, Florida Statutes, as
3 amended by this act:

4 (1) The contribution rate that applies to the Special
5 Risk Class of the defined benefit program of the Florida
6 Retirement System shall be increased by 0.02 percentage
7 points; and

8 (2) The contribution rate that applies to the Special
9 Risk Administrative Support Class of the defined benefit
10 program of the Florida Retirement System shall be increased by
11 0.14 percentage points.

12
13 These increases shall be in addition to all other changes to
14 such contribution rates which may be enacted into law to take
15 effect on that date. The Division of Statutory Revision is
16 directed to adjust accordingly the contribution rates set
17 forth in section 121.071, Florida Statutes.

18 Section 7. Except as otherwise provided in this act,
19 this act shall take effect upon becoming a law.

20
21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 1346

24 The Committee Substitute includes firefighters and paramedics
25 in its coverage but provides that the injury must have been
26 sustained in the line of duty and rendered the named public
27 safety member unable to work as an employee. It further
28 includes a payroll contribution rate increase to pay for the
29 increased benefit exposure.
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