

By the Fiscal Responsibility Council and Representatives  
Attkisson and Lynn

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 for contribution rate  
16          increases to fund benefits provided in s.  
17          121.091, F.S., as amended; directing the  
18          Division of Statutory Revision to adjust  
19          contribution rates set forth in s. 121.071,  
20          F.S.; providing effective dates.

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

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

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

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

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

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

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

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

1 employment and receive a salary during the period of  
2 participation in the Deferred Retirement Option Program, as  
3 provided in subsection (13).

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

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

1 121.021(39). Any retired member who is reemployed within 1  
2 calendar month after retirement shall void his or her  
3 application for retirement benefits. District school boards  
4 reemploying such teachers, education paraprofessionals,  
5 transportation assistants, bus drivers, or food service  
6 workers are subject to the retirement contribution required by  
7 subparagraph 8.7. Reemployment of a retired member as a  
8 substitute or hourly teacher, education paraprofessional,  
9 transportation assistant, bus driver, or food service worker  
10 is limited to 780 hours during the first 12 months of his or  
11 her retirement. Any retired member reemployed for more than  
12 780 hours during his or her first 12 months of retirement  
13 shall give timely notice in writing to the employer and to the  
14 division of the date he or she will exceed the limitation.  
15 The division shall suspend his or her retirement benefits for  
16 the remainder of the first 12 months of retirement. Any  
17 person employed in violation of this subparagraph and any  
18 employing agency which knowingly employs or appoints such  
19 person without notifying the Division of Retirement to suspend  
20 retirement benefits shall be jointly and severally liable for  
21 reimbursement to the retirement trust fund of any benefits  
22 paid during the reemployment limitation period. To avoid  
23 liability, such employing agency shall have a written  
24 statement from the retiree that he or she is not retired from  
25 a state-administered retirement system. Any retirement  
26 benefits received by a retired member while reemployed in  
27 excess of 780 hours during the first 12 months of retirement  
28 shall be repaid to the Retirement System Trust Fund, and his  
29 or her retirement benefits shall remain suspended until  
30 repayment is made. Benefits suspended beyond the end of the  
31 retired member's first 12 months of retirement shall apply

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

1 of retirement. Any person employed in violation of this  
2 subparagraph and any employing agency that knowingly employs  
3 or appoints such person without notifying the Division of  
4 Retirement to suspend retirement benefits shall be jointly and  
5 severally liable for reimbursement to the retirement trust  
6 fund of any benefits paid during the reemployment limitation  
7 period. To avoid liability, such employing agency shall have a  
8 written statement from the retiree that he or she is not  
9 retired from a state-administered retirement system. Any  
10 retirement benefits received by a retired member while  
11 reemployed in excess of 780 hours during the first 12 months  
12 of retirement shall be repaid to the Retirement System Trust  
13 Fund, and retirement benefits shall remain suspended until  
14 repayment is made. Benefits suspended beyond the end of the  
15 retired member's first 12 months of retirement shall apply  
16 toward repayment of benefits received in violation of the  
17 780-hour reemployment limitation.

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

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

9 175.191 Disability retirement.--For any municipality,  
10 special fire control district, chapter plan, local law  
11 municipality, local law special fire control district, or  
12 local law plan under this chapter:

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

1 benefit but shall not be less than 80 percent of his or her  
2 average monthly salary at the time of disability.

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

5 185.18 Disability retirement.--For any municipality,  
6 chapter plan, local law municipality, or local law plan under  
7 this chapter:

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

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1           Section 6. Effective July 1, 2002, in order to fund  
2 the benefits provided in s. 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.

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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 s. 121.071, Florida Statutes.

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