

By Senator Smith

14-1004-03

See HB 147

1 A bill to be entitled
 2 An act relating to retirement; providing a
 3 popular name; providing legislative intent;
 4 amending s. 121.091, F.S.; revising provisions
 5 relating to benefits payable for total and
 6 permanent disability for certain Special Risk
 7 Class members of the Florida Retirement System
 8 who are injured in the line of duty; providing
 9 for reemployment of retired deputy sheriffs;
 10 amending ss. 175.191 and 185.18, F.S.;
 11 providing minimum retirement benefits payable
 12 to certain Special Risk Class members who are
 13 injured in the line of duty and who are totally
 14 and permanently disabled due to such injury;
 15 providing for contribution rate increases to
 16 fund benefits provided in s. 121.091, F.S., as
 17 amended; directing the Division of Statutory
 18 Revision to adjust contribution rates set forth
 19 in s. 121.071, F.S.; providing an effective
 20 date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

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 24 Section 1. This act shall be known by the popular name
 25 "Officer Malcolm Thompson Act."

26 Section 2. It is declared by the Legislature that
 27 firefighters, emergency medical technicians, paramedics, law
 28 enforcement officers, correctional officers, and correctional
 29 probation 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, emergency medical technicians, paramedics, law
7 enforcement officers, correctional officers, and correctional
8 probation officers, as defined in this act, and intends, in
9 implementing the provisions of Section 14, Article X of the
10 State Constitution as they relate to municipal and special
11 district pension trust fund systems and plans, that such
12 retirement systems or plans be managed, administered,
13 operated, and funded in such manner as to maximize the
14 protection of pension trust funds. Pursuant to Section 18,
15 Article VII of the State Constitution, the Legislature
16 determines and declares that the provisions of this act
17 fulfill an important state interest.

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

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

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(38) 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 officer. For purposes of this
20 subsection, the term "officer" includes police officers,
21 correctional officers, correctional probation officers,
22 firefighters, emergency medical technicians, and paramedics.

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

24 (b)1. Any person who is retired under this chapter,
25 except under the disability retirement provisions of
26 subsection (4), may be reemployed by any private or public
27 employer after retirement and receive retirement benefits and
28 compensation from his or her employer without any limitations,
29 except that a person may not receive both a salary from
30 reemployment with any agency participating in the Florida
31 Retirement System and retirement benefits under this chapter

1 for a period of 12 months immediately subsequent to the date
2 of retirement. However, a DROP participant shall continue
3 employment and receive a salary during the period of
4 participation in the Deferred Retirement Option Program, as
5 provided in subsection (13).

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

29 3. A district school board may reemploy a retired
30 member as a substitute or hourly teacher, education
31 paraprofessional, transportation assistant, bus driver, or

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

1 repayment is made. Benefits suspended beyond the end of the
2 retired member's first 12 months of retirement shall apply
3 toward repayment of benefits received in violation of the
4 780-hour reemployment limitation.

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

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

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

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

12 6. The Board of Trustees of the Florida School for the
13 Deaf and the Blind may reemploy a retired member as a
14 substitute teacher, substitute residential instructor, or
15 substitute nurse on a noncontractual basis after he or she has
16 been retired for 1 calendar month, in accordance with s.
17 121.021(39). Any retired member who is reemployed within 1
18 calendar month after retirement shall void his or her
19 application for retirement benefits. The Board of Trustees of
20 the Florida School for the Deaf and the Blind reemploying such
21 teachers, residential instructors, or nurses is subject to the
22 retirement contribution required by subparagraph 8.7-
23 Reemployment of a retired member as a substitute teacher,
24 substitute residential instructor, or substitute nurse is
25 limited to 780 hours during the first 12 months of his or her
26 retirement. Any retired member reemployed for more than 780
27 hours during the first 12 months of retirement shall give
28 timely notice in writing to the employer and to the division
29 of the date he or she will exceed the limitation. The division
30 shall suspend his or her retirement benefits for the remainder
31 of the first 12 months of retirement. Any person employed in

1 violation of this subparagraph and any employing agency which
2 knowingly employs or appoints such person without notifying
3 the Division of Retirement to suspend retirement benefits
4 shall be jointly and severally liable for reimbursement to the
5 retirement trust fund of any benefits paid during the
6 reemployment limitation period. To avoid liability, such
7 employing agency shall have a written statement from the
8 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 his or her retirement
13 benefits shall remain suspended until payment is made.
14 Benefits suspended beyond the end of the retired member's
15 first 12 months of retirement shall apply toward repayment of
16 benefits received in violation of the 780-hour reemployment
17 limitation.

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

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

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

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1 provided in s. 121.122 for retirees with renewed membership or
2 subsection (13) with respect to DROP participants.

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

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

1 retired under those provisions, unless such person is eligible
2 to retire under the provisions of this subparagraph, as
3 amended by chapter 84-11, Laws of Florida.

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

8 ~~12.11.~~ An employing agency may reemploy a retired
9 member as a firefighter or paramedic after the retired member
10 has been retired for 1 calendar month, in accordance with s.
11 121.021(39). Any retired member who is reemployed within 1
12 calendar month after retirement shall void his or her
13 application for retirement benefits. The employing agency
14 reemploying such firefighter or paramedic is subject to the
15 retired contribution required in subparagraph ~~9.8.~~
16 Reemployment of a retired firefighter or paramedic is limited
17 to no more than 780 hours during the first 12 months of his or
18 her retirement. Any retired member reemployed for more than
19 780 hours during the first 12 months of retirement shall give
20 timely notice in writing to the employer and to the division
21 of the date he or she will exceed the limitation. The division
22 shall suspend his or her retirement benefits for the remainder
23 of the first 12 months of retirement. Any person employed in
24 violation of this subparagraph and any employing agency which
25 knowingly employs or appoints such person without notifying
26 the Division of Retirement to suspend retirement benefits
27 shall be jointly and severally liable for reimbursement to the
28 Retirement System Trust Fund of any benefits paid during the
29 reemployment limitation period. To avoid liability, such
30 employing agency shall have a written statement from the
31 retiree that he or she is not retired from a

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

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

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

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

1 as defined in s. 440.02(38) suffered in the line of duty where
2 such injury is a result of a felonious act of another shall be
3 the accrued retirement benefit but shall not be less than 80
4 percent of his or her average monthly salary at the time of
5 disability.

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

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

11 (5) The benefit payable to a police officer who
12 retires from the service of the city with a total and
13 permanent disability as a result of a disability is the
14 monthly income payable for 10 years certain and life for
15 which, if the police officer's disability occurred in the line
16 of duty, his or her monthly benefit shall be the accrued
17 retirement benefit, but shall not be less than 42 percent of
18 his or her average monthly compensation as of the police
19 officer's disability retirement date. If after 10 years of
20 service the disability is other than in the line of duty, the
21 police officer's monthly benefit shall be the accrued normal
22 retirement benefit, but shall not be less than 25 percent of
23 his or her average monthly compensation as of the police
24 officer's disability retirement date. Notwithstanding any
25 provision to the contrary, the monthly retirement benefit
26 payable to a police officer who retires from service due to
27 total and permanent disability as a result of a catastrophic
28 injury as defined in s. 440.02(38) suffered in the line of
29 duty where such injury is a result of a felonious act of
30 another shall be the accrued retirement benefit but shall not
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1 be less than 80 percent of the officer's average monthly
2 compensation as of the officer's disability retirement date.

3 Section 6. Effective July 1, 2003, in order to fund
4 the benefits provided in section 121.091, Florida Statutes, as
5 amended by this act:

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

10 (2) The contribution rate that applies to the Special
11 Risk Administrative Support Class of the defined benefit
12 program of the Florida Retirement System shall be increased by
13 0.14 percentage points.

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

20 Section 7. This act shall take effect upon becoming a
21 law.

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