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A bill to be entitled

An act relating to retirement; providing a popular name; providing legislative intent; amending s. 121.091, F.S.; revising provisions relating to benefits payable for total and permanent disability for certain Special Risk Class members of the Florida Retirement System who are injured in the line of duty; providing for reemployment of retired officers; amending ss. 175.191 and 185.18, F.S.; providing minimum retirement benefits payable to certain Special Risk Class members who are injured in the line of duty and who are totally and permanently disabled due to such injury; providing for contribution rate increases to fund benefits provided in s. 121.091, F.S., as amended; directing the Division of Statutory Revision to adjust contribution rates set forth in s. 121.071, F.S.; providing an effective date.

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

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

Section 2. It is declared by the Legislature that firefighters, emergency medical technicians, paramedics, law enforcement officers, correctional officers, and correctional probation officers as defined in this act, sheriffs as defined in s. 30.072(5), Florida Statutes, deputy sheriffs as defined in s. 30.072(2), Florida Statutes, and highway patrol officers under chapter 321, Florida Statutes, perform state and municipal functions; that it is their duty to protect life and property at their own risk and peril; that it is their duty to continuously

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31 instruct school personnel, public officials, and private
 32 citizens about safety; and that their activities are vital to
 33 the public safety. Therefore, the Legislature declares that it
 34 is a proper and legitimate state purpose to provide a uniform
 35 retirement system for the benefit of firefighters, emergency
 36 medical technicians, paramedics, law enforcement officers,
 37 correctional officers, and correctional probation officers as
 38 defined in this act, sheriffs as defined in s. 30.072(5),
 39 Florida Statutes, deputy sheriffs as defined in s. 30.072(2),
 40 Florida Statutes, and highway patrol officers under chapter 321,
 41 Florida Statutes, and intends, in implementing the provisions of
 42 s. 14, Art. X of the State Constitution as they relate to
 43 municipal and special district pension trust fund systems and
 44 plans, that such retirement systems or plans be managed,
 45 administered, operated, and funded in such manner as to maximize
 46 the protection of pension trust funds. Pursuant to s. 18, Art.
 47 VII of the State Constitution, the Legislature hereby determines
 48 and declares that the provisions of this act fulfill an
 49 important state interest.

50 Section 3. Paragraph (b) of subsection (4) and paragraph
 51 (b) of subsection (9) of section 121.091, Florida Statutes, are
 52 amended to read:

53 121.091 Benefits payable under the system.--Benefits may
 54 not be paid under this section unless the member has terminated
 55 employment as provided in s. 121.021(39)(a) or begun
 56 participation in the Deferred Retirement Option Program as
 57 provided in subsection (13), and a proper application has been
 58 filed in the manner prescribed by the department. The department
 59 may cancel an application for retirement benefits when the
 60 member or beneficiary fails to timely provide the information

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61 and documents required by this chapter and the department's
62 rules. The department shall adopt rules establishing procedures
63 for application for retirement benefits and for the cancellation
64 of such application when the required information or documents
65 are not received.

66 (4) DISABILITY RETIREMENT BENEFIT.--

67 (b) *Total and permanent disability*.--A member shall be
68 considered totally and permanently disabled if, in the opinion
69 of the administrator, he or she is prevented, by reason of a
70 medically determinable physical or mental impairment, from
71 rendering useful and efficient service as an officer or
72 employee. A Special Risk Class member who is an officer as
73 defined in s. 943.10(1), (2), or (3); a firefighter as defined
74 in s. 633.30(1); an emergency medical technician as defined in
75 s. 401.23(11); or a paramedic as defined in s. 401.23(17) who is
76 catastrophically injured as defined in s. 440.02(38), Florida
77 Statutes 2002, in the line of duty as a result of a felonious
78 act of another shall be considered totally and permanently
79 disabled and unable to render useful and efficient service as an
80 officer, unless the administrator can provide documented
81 competent medical evidence that the officer is able to render
82 useful and efficient service as an officer. For purposes of this
83 section, the term "officer" includes police officers,
84 correctional officers, correctional probation officers, sheriffs
85 as defined in s. 30.072(5), deputy sheriffs as defined in s.
86 30.072(2), highway patrol officers under chapter 321,
87 firefighters, emergency medical technicians, and paramedics.

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

89 (b)1. Any person who is retired under this chapter, except
90 under the disability retirement provisions of subsection (4),

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91 may be reemployed by any private or public employer after
 92 retirement and receive retirement benefits and compensation from
 93 his or her employer without any limitations, except that a
 94 person may not receive both a salary from reemployment with any
 95 agency participating in the Florida Retirement System and
 96 retirement benefits under this chapter for a period of 12 months
 97 immediately subsequent to the date of retirement. However, a
 98 DROP participant shall continue employment and receive a salary
 99 during the period of participation in the Deferred Retirement
 100 Option Program, as provided in subsection (13).

101 2. Any person to whom the limitation in subparagraph 1.
 102 applies who violates such reemployment limitation and who is
 103 reemployed with any agency participating in the Florida
 104 Retirement System before completion of the 12-month limitation
 105 period shall give timely notice of this fact in writing to the
 106 employer and to the division and shall have his or her
 107 retirement benefits suspended for the balance of the 12-month
 108 limitation period. Any person employed in violation of this
 109 paragraph and any employing agency which knowingly employs or
 110 appoints such person without notifying the Division of
 111 Retirement to suspend retirement benefits shall be jointly and
 112 severally liable for reimbursement to the retirement trust fund
 113 of any benefits paid during the reemployment limitation period.
 114 To avoid liability, such employing agency shall have a written
 115 statement from the retiree that he or she is not retired from a
 116 state-administered retirement system. Any retirement benefits
 117 received while reemployed during this reemployment limitation
 118 period shall be repaid to the retirement trust fund, and
 119 retirement benefits shall remain suspended until such repayment
 120 has been made. Benefits suspended beyond the reemployment

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121 limitation shall apply toward repayment of benefits received in
122 violation of the reemployment limitation.

123 3. A district school board may reemploy a retired member
124 as a substitute or hourly teacher, education paraprofessional,
125 transportation assistant, bus driver, or food service worker on
126 a noncontractual basis after he or she has been retired for 1
127 calendar month, in accordance with s. 121.021(39). A district
128 school board may reemploy a retired member as instructional
129 personnel, as defined in s. 1012.01(2)(a), on an annual
130 contractual basis after he or she has been retired for 1
131 calendar month, in accordance with s. 121.021(39). Any other
132 retired member who is reemployed within 1 calendar month after
133 retirement shall void his or her application for retirement
134 benefits. District school boards reemploying such teachers,
135 education paraprofessionals, transportation assistants, bus
136 drivers, or food service workers are subject to the retirement
137 contribution required by subparagraph 8 7.

138 4. A community college board of trustees may reemploy a
139 retired member as an adjunct instructor, that is, an instructor
140 who is noncontractual and part-time, or as a participant in a
141 phased retirement program within the Florida Community College
142 System, after he or she has been retired for 1 calendar month,
143 in accordance with s. 121.021(39). Any retired member who is
144 reemployed within 1 calendar month after retirement shall void
145 his or her application for retirement benefits. Boards of
146 trustees reemploying such instructors are subject to the
147 retirement contribution required in subparagraph 8 7. A retired
148 member may be reemployed as an adjunct instructor for no more
149 than 780 hours during the first 12 months of retirement. Any
150 retired member reemployed for more than 780 hours during the

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151 first 12 months of retirement shall give timely notice in
152 writing to the employer and to the division of the date he or
153 she will exceed the limitation. The division shall suspend his
154 or her retirement benefits for the remainder of the first 12
155 months of retirement. Any person employed in violation of this
156 subparagraph and any employing agency which knowingly employs or
157 appoints such person without notifying the Division of
158 Retirement to suspend retirement benefits shall be jointly and
159 severally liable for reimbursement to the retirement trust fund
160 of any benefits paid during the reemployment limitation period.
161 To avoid liability, such employing agency shall have a written
162 statement from the retiree that he or she is not retired from a
163 state-administered retirement system. Any retirement benefits
164 received by a retired member while reemployed in excess of 780
165 hours during the first 12 months of retirement shall be repaid
166 to the Retirement System Trust Fund, and retirement benefits
167 shall remain suspended until repayment is made. Benefits
168 suspended beyond the end of the retired member's first 12 months
169 of retirement shall apply toward repayment of benefits received
170 in violation of the 780-hour reemployment limitation.

171 5. The State University System may reemploy a retired
172 member as an adjunct faculty member or as a participant in a
173 phased retirement program within the State University System
174 after the retired member has been retired for 1 calendar month,
175 in accordance with s. 121.021(39). Any retired member who is
176 reemployed within 1 calendar month after retirement shall void
177 his or her application for retirement benefits. The State
178 University System is subject to the retired contribution
179 required in subparagraph 8 7., as appropriate. A retired member
180 may be reemployed as an adjunct faculty member or a participant

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181 in a phased retirement program for no more than 780 hours during
 182 the first 12 months of his or her retirement. Any retired member
 183 reemployed for more than 780 hours during the first 12 months of
 184 retirement shall give timely notice in writing to the employer
 185 and to the division of the date he or she will exceed the
 186 limitation. The division shall suspend his or her retirement
 187 benefits for the remainder of the first 12 months of retirement.
 188 Any person employed in violation of this subparagraph and any
 189 employing agency which knowingly employs or appoints such person
 190 without notifying the Division of Retirement to suspend
 191 retirement benefits shall be jointly and severally liable for
 192 reimbursement to the retirement trust fund of any benefits paid
 193 during the reemployment limitation period. To avoid liability,
 194 such employing agency shall have a written statement from the
 195 retiree that he or she is not retired from a state-administered
 196 retirement system. Any retirement benefits received by a retired
 197 member while reemployed in excess of 780 hours during the first
 198 12 months of retirement shall be repaid to the Retirement System
 199 Trust Fund, and retirement benefits shall remain suspended until
 200 repayment is made. Benefits suspended beyond the end of the
 201 retired member's first 12 months of retirement shall apply
 202 toward repayment of benefits received in violation of the 780-
 203 hour reemployment limitation.

204 6. The Board of Trustees of the Florida School for the
 205 Deaf and the Blind may reemploy a retired member as a substitute
 206 teacher, substitute residential instructor, or substitute nurse
 207 on a noncontractual basis after he or she has been retired for 1
 208 calendar month, in accordance with s. 121.021(39). Any retired
 209 member who is reemployed within 1 calendar month after
 210 retirement shall void his or her application for retirement

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211 benefits. The Board of Trustees of the Florida School for the
 212 Deaf and the Blind reemploying such teachers, residential
 213 instructors, or nurses is subject to the retirement contribution
 214 required by subparagraph 8 7. Reemployment of a retired member
 215 as a substitute teacher, substitute residential instructor, or
 216 substitute nurse is limited to 780 hours during the first 12
 217 months of his or her retirement. Any retired member reemployed
 218 for more than 780 hours during the first 12 months of retirement
 219 shall give timely notice in writing to the employer and to the
 220 division of the date he or she will exceed the limitation. The
 221 division shall suspend his or her retirement benefits for the
 222 remainder of the first 12 months of retirement. Any person
 223 employed in violation of this subparagraph and any employing
 224 agency which knowingly employs or appoints such person without
 225 notifying the Division of Retirement to suspend retirement
 226 benefits shall be jointly and severally liable for reimbursement
 227 to the retirement trust fund of any benefits paid during the
 228 reemployment limitation period. To avoid liability, such
 229 employing agency shall have a written statement from the retiree
 230 that he or she is not retired from a state-administered
 231 retirement system. Any retirement benefits received by a retired
 232 member while reemployed in excess of 780 hours during the first
 233 12 months of retirement shall be repaid to the Retirement System
 234 Trust Fund, and his or her retirement benefits shall remain
 235 suspended until payment is made. Benefits suspended beyond the
 236 end of the retired member's first 12 months of retirement shall
 237 apply toward repayment of benefits received in violation of the
 238 780-hour reemployment limitation.

239 7. An employing agency may reemploy a retired member as an
 240 officer after the retired member has been retired for 1 calendar

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241 month, in accordance with s. 121.021(39). Any retired member who
242 is reemployed within 1 calendar month after retirement shall
243 void his or her application for retirement benefits. An
244 employing agency reemploying such officer is subject to the
245 retirement contribution required in subparagraph 8. Reemployment
246 of a retired officer is limited to no more than 780 hours during
247 the first 12 months of his or her retirement. Any retired member
248 reemployed for more than 780 hours during the first 12 months of
249 retirement shall give timely notice in writing to the employer
250 and to the division of the date he or she will exceed the
251 limitation. The division shall suspend his or her retirement
252 benefits for the remainder of the first 12 months of retirement.
253 Any person employed in violation of this subparagraph and any
254 employing agency that knowingly employs or appoints such person
255 without notifying the Division of Retirement to suspend
256 retirement benefits shall be jointly and severally liable for
257 reimbursement to the retirement trust fund of any benefits paid
258 during the reemployment limitation period. To avoid liability,
259 such employing agency shall have a written statement from the
260 retiree that he or she is not retired from a state-administered
261 retirement system. Any retirement benefits received by a retired
262 member while reemployed in excess of 780 hours during the first
263 12 months of retirement shall be repaid to the Retirement System
264 Trust Fund, and retirement benefits shall remain suspended until
265 repayment is made. Benefits suspended beyond the end of the
266 retired member's first 12 months of retirement shall apply
267 toward repayment of benefits received in violation of the 780-
268 hour reemployment limitation.

269 8.7. The employment by an employer of any retiree or DROP
270 participant of any state-administered retirement system shall

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271 have no effect on the average final compensation or years of
 272 creditable service of the retiree or DROP participant. Prior to
 273 July 1, 1991, upon employment of any person, other than an
 274 elected officer as provided in s. 121.053, who has been retired
 275 under any state-administered retirement program, the employer
 276 shall pay retirement contributions in an amount equal to the
 277 unfunded actuarial liability portion of the employer
 278 contribution which would be required for regular members of the
 279 Florida Retirement System. Effective July 1, 1991, contributions
 280 shall be made as provided in s. 121.122 for retirees with
 281 renewed membership or subsection (13) with respect to DROP
 282 participants.

283 ~~9.8-~~ Any person who has previously retired and who is
 284 holding an elective public office or an appointment to an
 285 elective public office eligible for the Elected Officers' Class
 286 on or after July 1, 1990, shall be enrolled in the Florida
 287 Retirement System as provided in s. 121.053(1)(b) or, if holding
 288 an elective public office that does not qualify for the Elected
 289 Officers' Class on or after July 1, 1991, shall be enrolled in
 290 the Florida Retirement System as provided in s. 121.122, and
 291 shall continue to receive retirement benefits as well as
 292 compensation for the elected officer's service for as long as he
 293 or she remains in elective office. However, any retired member
 294 who served in an elective office prior to July 1, 1990,
 295 suspended his or her retirement benefit, and had his or her
 296 Florida Retirement System membership reinstated shall, upon
 297 retirement from such office, have his or her retirement benefit
 298 recalculated to include the additional service and compensation
 299 earned.

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300 10.9. Any person who is holding an elective public office
 301 which is covered by the Florida Retirement System and who is
 302 concurrently employed in nonelected covered employment may elect
 303 to retire while continuing employment in the elective public
 304 office, provided that he or she shall be required to terminate
 305 his or her nonelected covered employment. Any person who
 306 exercises this election shall receive his or her retirement
 307 benefits in addition to the compensation of the elective office
 308 without regard to the time limitations otherwise provided in
 309 this subsection. No person who seeks to exercise the provisions
 310 of this subparagraph, as the same existed prior to May 3, 1984,
 311 shall be deemed to be retired under those provisions, unless
 312 such person is eligible to retire under the provisions of this
 313 subparagraph, as amended by chapter 84-11, Laws of Florida.

314 11.10. The limitations of this paragraph apply to
 315 reemployment in any capacity with an "employer" as defined in s.
 316 121.021(10), irrespective of the category of funds from which
 317 the person is compensated.

318 ~~11. An employing agency may reemploy a retired member as a~~
 319 ~~firefighter or paramedic after the retired member has been~~
 320 ~~retired for 1 calendar month, in accordance with s. 121.021(39).~~
 321 ~~Any retired member who is reemployed within 1 calendar month~~
 322 ~~after retirement shall void his or her application for~~
 323 ~~retirement benefits. The employing agency reemploying such~~
 324 ~~firefighter or paramedic is subject to the retired contribution~~
 325 ~~required in subparagraph 8. Reemployment of a retired~~
 326 ~~firefighter or paramedic is limited to no more than 780 hours~~
 327 ~~during the first 12 months of his or her retirement. Any retired~~
 328 ~~member reemployed for more than 780 hours during the first 12~~
 329 ~~months of retirement shall give timely notice in writing to the~~

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330 ~~employer and to the division of the date he or she will exceed~~
 331 ~~the limitation. The division shall suspend his or her retirement~~
 332 ~~benefits for the remainder of the first 12 months of retirement.~~
 333 ~~Any person employed in violation of this subparagraph and any~~
 334 ~~employing agency which knowingly employs or appoints such person~~
 335 ~~without notifying the Division of Retirement to suspend~~
 336 ~~retirement benefits shall be jointly and severally liable for~~
 337 ~~reimbursement to the Retirement System Trust Fund of any~~
 338 ~~benefits paid during the reemployment limitation period. To~~
 339 ~~avoid liability, such employing agency shall have a written~~
 340 ~~statement from the retiree that he or she is not retired from a~~
 341 ~~state-administered retirement system. Any retirement benefits~~
 342 ~~received by a retired member while reemployed in excess of 780~~
 343 ~~hours during the first 12 months of retirement shall be repaid~~
 344 ~~to the Retirement System Trust Fund, and retirement benefits~~
 345 ~~shall remain suspended until repayment is made. Benefits~~
 346 ~~suspended beyond the end of the retired member's first 12 months~~
 347 ~~of retirement shall apply toward repayment of benefits received~~
 348 ~~in violation of the 780-hour reemployment limitation.~~

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

351 175.191 Disability retirement.--For any municipality,
 352 special fire control district, chapter plan, local law
 353 municipality, local law special fire control district, or local
 354 law plan under this chapter:

355 (5) The benefit payable to a firefighter who retires from
 356 the service of a municipality or special fire control district
 357 due to total and permanent disability as a direct result of a
 358 disability is the monthly income payable for 10 years certain
 359 and life for which, if the firefighter's disability occurred in

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360 the line of duty, his or her monthly benefit shall be the
 361 accrued retirement benefit, but shall not be less than 42
 362 percent of his or her average monthly salary at the time of
 363 disability. If after 10 years of service the disability is other
 364 than in the line of duty, the firefighter's monthly benefit
 365 shall be the accrued normal retirement benefit, but shall not be
 366 less than 25 percent of his or her average monthly salary at the
 367 time of disability. Notwithstanding any provision to the
 368 contrary, the monthly retirement benefit payable to a
 369 firefighter, emergency medical technician, or paramedic who
 370 retires from service due to total and permanent disability as a
 371 result of a catastrophic injury as defined in s. 440.02(38),
 372 Florida Statutes 2002, suffered in the line of duty where such
 373 injury is a result of a felonious act of another shall be the
 374 accrued retirement benefit but shall not be less than 80 percent
 375 of his or her average monthly salary at the time of disability.

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

378 185.18 Disability retirement.--For any municipality,
 379 chapter plan, local law municipality, or local law plan under
 380 this chapter:

381 (5) The benefit payable to a police officer who retires
 382 from the service of the city with a total and permanent
 383 disability as a result of a disability is the monthly income
 384 payable for 10 years certain and life for which, if the police
 385 officer's disability occurred in the line of duty, his or her
 386 monthly benefit shall be the accrued retirement benefit, but
 387 shall not be less than 42 percent of his or her average monthly
 388 compensation as of the police officer's disability retirement
 389 date. If after 10 years of service the disability is other than

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390 in the line of duty, the police officer's monthly benefit shall
 391 be the accrued normal retirement benefit, but shall not be less
 392 than 25 percent of his or her average monthly compensation as of
 393 the police officer's disability retirement date. Notwithstanding
 394 any provision to the contrary, the monthly retirement benefit
 395 payable to a police officer who retires from service due to
 396 total and permanent disability as a result of a catastrophic
 397 injury as defined in s. 440.02(38), Florida Statutes 2002,
 398 suffered in the line of duty where such injury is a result of a
 399 felonious act of another shall be the accrued retirement benefit
 400 but shall not be less than 80 percent of the officer's average
 401 monthly compensation as of the officer's disability retirement
 402 date.

403 Section 6. Effective July 1, 2004, in order to fund the
 404 benefits provided in s. 121.091, Florida Statutes, as amended by
 405 this act:

406 (1) The contribution rate that applies to the Special Risk
 407 Class of the defined benefit program of the Florida Retirement
 408 System shall be increased by 0.02 percentage points.

409 (2) The contribution rate that applies to the Special Risk
 410 Administrative Support Class of the defined benefit program of
 411 the Florida Retirement System shall be increased by 0.14
 412 percentage points.

413
 414 These increases shall be in addition to all other changes to
 415 such contribution rates which may be enacted into law to take
 416 effect on that date. The Division of Statutory Revision is
 417 directed to adjust accordingly the contribution rates set forth
 418 in s. 121.071, Florida Statutes.

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