

By Senator Smith

14-333A-04

See HB

1 A bill to be entitled
 2 An act relating to retirement; providing a
 3 short title; 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 officers; amending
 10 ss. 175.191 and 185.18, F.S.; providing minimum
 11 retirement benefits payable to certain Special
 12 Risk Class members who are injured in the line
 13 of duty and who are totally and permanently
 14 disabled due to such injury; providing for
 15 contribution rate increases to fund benefits
 16 provided in s. 121.091, F.S., as amended;
 17 directing the Division of Statutory Revision to
 18 adjust contribution rates set forth in s.
 19 121.071, F.S.; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

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 23 Section 1. This act may be cited as the "Officer
 24 Malcolm Thompson Act."

25 Section 2. It is declared by the Legislature that
 26 firefighters, emergency medical technicians, paramedics, law
 27 enforcement officers, correctional officers, and correctional
 28 probation officers as defined in this act, sheriffs as defined
 29 in section 30.072(5), Florida Statutes, deputy sheriffs as
 30 defined in section 30.072(2), Florida Statutes, and highway
 31 patrol officers under chapter 321, Florida Statutes, perform

1 state and municipal functions; that it is their duty to
2 protect life and property at their own risk and peril; that it
3 is their duty to continuously instruct school personnel,
4 public officials, and private citizens about safety; and that
5 their activities are vital to the public safety. Therefore,
6 the Legislature declares that it is a proper and legitimate
7 state purpose to provide a uniform retirement system for the
8 benefit of firefighters, emergency medical technicians,
9 paramedics, law enforcement officers, correctional officers,
10 and correctional probation officers as defined in this act,
11 sheriffs as defined in section 30.072(5), Florida Statutes,
12 deputy sheriffs as defined in section 30.072(2), Florida
13 Statutes, and highway patrol officers under chapter 321,
14 Florida Statutes, and intends, in implementing the provisions
15 of Section 14, Article X of the State Constitution as they
16 relate to municipal and special district pension trust fund
17 systems and plans, that such retirement systems or plans be
18 managed, administered, operated, and funded in such manner as
19 to maximize the protection of pension trust funds. Pursuant to
20 Section 18, Article VII of the State Constitution, the
21 Legislature hereby determines and declares that the provisions
22 of this act fulfill an important state interest.

23 Section 3. Paragraph (b) of subsection (4) and
24 paragraph (b) of subsection (9) of section 121.091, Florida
25 Statutes, are amended to read:

26 121.091 Benefits payable under the system.--Benefits
27 may not be paid under this section unless the member has
28 terminated employment as provided in s. 121.021(39)(a) or
29 begun participation in the Deferred Retirement Option Program
30 as provided in subsection (13), and a proper application has
31 been filed in the manner prescribed by the department. The

1 department may cancel an application for retirement benefits
2 when the member or beneficiary fails to timely provide the
3 information and documents required by this chapter and the
4 department's rules. The department shall adopt rules
5 establishing procedures for application for retirement
6 benefits and for the cancellation of such application when the
7 required information or documents are not received.

8 (4) DISABILITY RETIREMENT BENEFIT.--

9 (b) Total and permanent disability.--A member shall be
10 considered totally and permanently disabled if, in the opinion
11 of the administrator, he or she is prevented, by reason of a
12 medically determinable physical or mental impairment, from
13 rendering useful and efficient service as an officer or
14 employee. A Special Risk Class member who is an officer as
15 defined in s. 943.10(1), (2), or (3); a firefighter as defined
16 in s. 633.30(1); an emergency medical technician as defined in
17 s. 401.23(11); or a paramedic as defined in s. 401.23(17) who
18 is catastrophically injured as defined in s. 440.02(38),
19 Florida Statutes 2002, in the line of duty as a result of a
20 felonious act of another shall be considered totally and
21 permanently disabled and unable to render useful and efficient
22 service as an officer, unless the administrator can provide
23 documented competent medical evidence that the officer is able
24 to render useful and efficient service as an officer. For
25 purposes of this section, the term "officer" includes police
26 officers, correctional officers, correctional probation
27 officers, sheriffs as defined in s. 30.072(5), deputy sheriffs
28 as defined in s. 30.072(2), highway patrol officers under
29 chapter 321, firefighters, emergency medical technicians, and
30 paramedics.

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

1 (b)1. Any person who is retired under this chapter,
2 except under the disability retirement provisions of
3 subsection (4), may be reemployed by any private or public
4 employer after retirement and receive retirement benefits and
5 compensation from his or her employer without any limitations,
6 except that a person may not receive both a salary from
7 reemployment with any agency participating in the Florida
8 Retirement System and retirement benefits under this chapter
9 for a period of 12 months immediately subsequent to the date
10 of retirement. However, a DROP participant shall continue
11 employment and receive a salary during the period of
12 participation in the Deferred Retirement Option Program, as
13 provided in subsection (13).

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

1 retirement trust fund, and retirement benefits shall remain
2 suspended until such repayment has been made. Benefits
3 suspended beyond the reemployment limitation shall apply
4 toward repayment of benefits received in violation of the
5 reemployment limitation.

6 3. A district school board may reemploy a retired
7 member as a substitute or hourly teacher, education
8 paraprofessional, transportation assistant, bus driver, or
9 food service worker on a noncontractual basis after he or she
10 has been retired for 1 calendar month, in accordance with s.
11 121.021(39). A district school board may reemploy a retired
12 member as instructional personnel, as defined in s.
13 1012.01(2)(a), on an annual contractual basis after he or she
14 has been retired for 1 calendar month, in accordance with s.
15 121.021(39). Any other retired member who is reemployed within
16 1 calendar month after retirement shall void his or her
17 application for retirement benefits. District school boards
18 reemploying such teachers, education paraprofessionals,
19 transportation assistants, bus drivers, or food service
20 workers are subject to the retirement contribution required by
21 subparagraph 8.7.

22 4. A community college board of trustees may reemploy
23 a retired member as an adjunct instructor, that is, an
24 instructor who is noncontractual and part-time, or as a
25 participant in a phased retirement program within the Florida
26 Community College System, after he or she has been retired for
27 1 calendar month, in accordance with s. 121.021(39). Any
28 retired member who is reemployed within 1 calendar month after
29 retirement shall void his or her application for retirement
30 benefits. Boards of trustees reemploying such instructors are
31 subject to the retirement contribution required in

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

26 5. The State University System may reemploy a retired
27 member as an adjunct faculty member or as a participant in a
28 phased retirement program within the State University System
29 after the retired member has been retired for 1 calendar
30 month, in accordance with s. 121.021(39). Any retired member
31 who is reemployed within 1 calendar month after retirement

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

29 6. The Board of Trustees of the Florida School for the
30 Deaf and the Blind may reemploy a retired member as a
31 substitute teacher, substitute residential instructor, or

1 substitute nurse on a noncontractual basis after he or she has
2 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. The Board of Trustees of
6 the Florida School for the Deaf and the Blind reemploying such
7 teachers, residential instructors, or nurses is subject to the
8 retirement contribution required by subparagraph 8.7.
9 Reemployment of a retired member as a substitute teacher,
10 substitute residential instructor, or substitute nurse is
11 limited to 780 hours during the first 12 months of his or her
12 retirement. Any retired member reemployed for more than 780
13 hours during the first 12 months of retirement shall give
14 timely notice in writing to the employer and to the division
15 of the date he or she will exceed the limitation. The division
16 shall suspend his or her retirement benefits for the remainder
17 of the first 12 months of retirement. Any person employed in
18 violation of this subparagraph and any employing agency which
19 knowingly employs or appoints such person without notifying
20 the Division of Retirement to suspend retirement benefits
21 shall be jointly and severally liable for reimbursement to the
22 retirement trust fund of any benefits paid during the
23 reemployment limitation period. To avoid liability, such
24 employing agency shall have a written statement from the
25 retiree that he or she is not retired from a
26 state-administered retirement system. Any retirement benefits
27 received by a retired member while reemployed in excess of 780
28 hours during the first 12 months of retirement shall be repaid
29 to the Retirement System Trust Fund, and his or her retirement
30 benefits shall remain suspended until payment is made.
31 Benefits suspended beyond the end of the retired member's

1 first 12 months of retirement shall apply toward repayment of
2 benefits received in violation of the 780-hour reemployment
3 limitation.

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

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

4 ~~8.7.~~ The employment by an employer of any retiree or
5 DROP participant of any state-administered retirement system
6 shall have no effect on the average final compensation or
7 years of creditable service of the retiree or DROP
8 participant. Prior to July 1, 1991, upon employment of any
9 person, other than an elected officer as provided in s.
10 121.053, who has been retired under any state-administered
11 retirement program, the employer shall pay retirement
12 contributions in an amount equal to the unfunded actuarial
13 liability portion of the employer contribution which would be
14 required for regular members of the Florida Retirement System.
15 Effective July 1, 1991, contributions shall be made as
16 provided in s. 121.122 for retirees with renewed membership or
17 subsection (13) with respect to DROP participants.

18 ~~9.8.~~ Any person who has previously retired and who is
19 holding an elective public office or an appointment to an
20 elective public office eligible for the Elected Officers'
21 Class on or after July 1, 1990, shall be enrolled in the
22 Florida Retirement System as provided in s. 121.053(1)(b) or,
23 if holding an elective public office that does not qualify for
24 the Elected Officers' Class on or after July 1, 1991, shall be
25 enrolled in the Florida Retirement System as provided in s.
26 121.122, and shall continue to receive retirement benefits as
27 well as compensation for the elected officer's service for as
28 long as he or she remains in elective office. However, any
29 retired member who served in an elective office prior to July
30 1, 1990, suspended his or her retirement benefit, and had his
31 or her Florida Retirement System membership reinstated shall,

1 upon retirement from such office, have his or her retirement
2 benefit recalculated to include the additional service and
3 compensation earned.

4 10.9. Any person who is holding an elective public
5 office which is covered by the Florida Retirement System and
6 who is concurrently employed in nonelected covered employment
7 may elect to retire while continuing employment in the
8 elective public office, provided that he or she shall be
9 required to terminate his or her nonelected covered
10 employment. Any person who exercises this election shall
11 receive his or her retirement benefits in addition to the
12 compensation of the elective office without regard to the time
13 limitations otherwise provided in this subsection. No person
14 who seeks to exercise the provisions of this subparagraph, as
15 the same existed prior to May 3, 1984, shall be deemed to be
16 retired under those provisions, unless such person is eligible
17 to retire under the provisions of this subparagraph, as
18 amended by chapter 84-11, Laws of Florida.

19 11.10. The limitations of this paragraph apply to
20 reemployment in any capacity with an "employer" as defined in
21 s. 121.021(10), irrespective of the category of funds from
22 which the person is compensated.

23 ~~11. An employing agency may reemploy a retired member~~
24 ~~as a firefighter or paramedic after the retired member has~~
25 ~~been retired for 1 calendar month, in accordance with s.~~
26 ~~121.021(39). Any retired member who is reemployed within 1~~
27 ~~calendar month after retirement shall void his or her~~
28 ~~application for retirement benefits. The employing agency~~
29 ~~reemploying such firefighter or paramedic is subject to the~~
30 ~~retired contribution required in subparagraph 8. Reemployment~~
31 ~~of a retired firefighter or paramedic is limited to no more~~

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

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

26 175.191 Disability retirement.--For any municipality,
27 special fire control district, chapter plan, local law
28 municipality, local law special fire control district, or
29 local law plan under this chapter:

30 (5) The benefit payable to a firefighter who retires
31 from the service of a municipality or special fire control

1 district due to total and permanent disability as a direct
2 result of a disability is the monthly income payable for 10
3 years certain and life for which, if the firefighter's
4 disability occurred in the line of duty, his or her monthly
5 benefit shall be the accrued retirement benefit, but shall not
6 be less than 42 percent of his or her average monthly salary
7 at the time of disability. If after 10 years of service the
8 disability is other than in the line of duty, the
9 firefighter's monthly benefit shall be the accrued normal
10 retirement benefit, but shall not be less than 25 percent of
11 his or her average monthly salary at the time of disability.
12 Notwithstanding any provision to the contrary, the monthly
13 retirement benefit payable to a firefighter, emergency medical
14 technician, or paramedic who retires from service due to total
15 and permanent disability as a result of a catastrophic injury
16 as defined in s. 440.02(38), Florida Statutes 2002, suffered
17 in the line of duty where such injury is a result of a
18 felonious act of another shall be the accrued retirement
19 benefit but shall not be less than 80 percent of his or her
20 average monthly salary at the time of disability.

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

23 185.18 Disability retirement.--For any municipality,
24 chapter plan, local law municipality, or local law plan under
25 this chapter:

26 (5) The benefit payable to a police officer who
27 retires from the service of the city with a total and
28 permanent disability as a result of a disability is the
29 monthly income payable for 10 years certain and life for
30 which, if the police officer's disability occurred in the line
31 of duty, his or her monthly benefit shall be the accrued

1 retirement benefit, but shall not be less than 42 percent of
2 his or her average monthly compensation as of the police
3 officer's disability retirement date. If after 10 years of
4 service the disability is other than in the line of duty, the
5 police officer's monthly benefit shall be the accrued normal
6 retirement benefit, but shall not be less than 25 percent of
7 his or her average monthly compensation as of the police
8 officer's disability retirement date. Notwithstanding any
9 provision to the contrary, the monthly retirement benefit
10 payable to a police officer who retires from service due to
11 total and permanent disability as a result of a catastrophic
12 injury as defined in s. 440.02(38), Florida Statutes 2002,
13 suffered in the line of duty where such injury is a result of
14 a felonious act of another shall be the accrued retirement
15 benefit but shall not be less than 80 percent of the officer's
16 average monthly compensation as of the officer's disability
17 retirement date.

18 Section 6. Effective July 1, 2004, in order to fund
19 the benefits provided in section 121.091, Florida Statutes, as
20 amended by this act:

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

25 (2) The contribution rate that applies to the Special
26 Risk Administrative Support Class of the defined benefit
27 program of the Florida Retirement System shall be increased by
28 0.14 percentage points.

29
30 These increases shall be in addition to all other changes to
31 such contribution rates which may be enacted into law to take

1 effect on that date. The Division of Statutory Revision is
2 directed to adjust accordingly the contribution rates set
3 forth in section 121.071, Florida Statutes.

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

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