

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

17

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

19

20 Section 1. This act may be cited as the "Officer Malcolm
 21 Thompson Act."

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

29 functions; that it is their duty to protect life and property at
30 their own risk and peril; that it is their duty to continuously
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
 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),
 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
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 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 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
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 7., as appropriate. A retired member
180 may be reemployed as an adjunct faculty member or a participant
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
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 7. Reemployment of a retired member as
215 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. The employment by an employer of any retiree or DROP
240 participant of any state-administered retirement system shall
241 have no effect on the average final compensation or years of
242 creditable service of the retiree or DROP participant. Prior to
243 July 1, 1991, upon employment of any person, other than an
244 elected officer as provided in s. 121.053, who has been retired
245 under any state-administered retirement program, the employer
246 shall pay retirement contributions in an amount equal to the
247 unfunded actuarial liability portion of the employer
248 contribution which would be required for regular members of the
249 Florida Retirement System. Effective July 1, 1991, contributions
250 shall be made as provided in s. 121.122 for retirees with
251 renewed membership or subsection (13) with respect to DROP
252 participants.

253 8. Any person who has previously retired and who is
254 holding an elective public office or an appointment to an
255 elective public office eligible for the Elected Officers' Class
256 on or after July 1, 1990, shall be enrolled in the Florida
257 Retirement System as provided in s. 121.053(1)(b) or, if holding
258 an elective public office that does not qualify for the Elected
259 Officers' Class on or after July 1, 1991, shall be enrolled in
260 the Florida Retirement System as provided in s. 121.122, and
261 shall continue to receive retirement benefits as well as
262 compensation for the elected officer's service for as long as he
263 or she remains in elective office. However, any retired member
264 who served in an elective office prior to July 1, 1990,
265 suspended his or her retirement benefit, and had his or her
266 Florida Retirement System membership reinstated shall, upon
267 retirement from such office, have his or her retirement benefit
268 recalculated to include the additional service and compensation
269 earned.

270 9. Any person who is holding an elective public office
271 which is covered by the Florida Retirement System and who is
272 concurrently employed in nonelected covered employment may elect
273 to retire while continuing employment in the elective public
274 office, provided that he or she shall be required to terminate
275 his or her nonelected covered employment. Any person who
276 exercises this election shall receive his or her retirement
277 benefits in addition to the compensation of the elective office
278 without regard to the time limitations otherwise provided in
279 this subsection. No person who seeks to exercise the provisions
280 of this subparagraph, as the same existed prior to May 3, 1984,

281 shall be deemed to be retired under those provisions, unless
 282 such person is eligible to retire under the provisions of this
 283 subparagraph, as amended by chapter 84-11, Laws of Florida.

284 10. The limitations of this paragraph apply to
 285 reemployment in any capacity with an "employer" as defined in s.
 286 121.021(10), irrespective of the category of funds from which
 287 the person is compensated.

288 ~~11. An employing agency may reemploy a retired member as a~~
 289 ~~firefighter or paramedic after the retired member has been~~
 290 ~~retired for 1 calendar month, in accordance with s. 121.021(39).~~
 291 ~~Any retired member who is reemployed within 1 calendar month~~
 292 ~~after retirement shall void his or her application for~~
 293 ~~retirement benefits. The employing agency reemploying such~~
 294 ~~firefighter or paramedic is subject to the retired contribution~~
 295 ~~required in subparagraph 8. Reemployment of a retired~~
 296 ~~firefighter or paramedic is limited to no more than 780 hours~~
 297 ~~during the first 12 months of his or her retirement. Any retired~~
 298 ~~member reemployed for more than 780 hours during the first 12~~
 299 ~~months of retirement shall give timely notice in writing to the~~
 300 ~~employer and to the division of the date he or she will exceed~~
 301 ~~the limitation. The division shall suspend his or her retirement~~
 302 ~~benefits for the remainder of the first 12 months of retirement.~~
 303 ~~Any person employed in violation of this subparagraph and any~~
 304 ~~employing agency which knowingly employs or appoints such person~~
 305 ~~without notifying the Division of Retirement to suspend~~
 306 ~~retirement benefits shall be jointly and severally liable for~~
 307 ~~reimbursement to the Retirement System Trust Fund of any~~
 308 ~~benefits paid during the reemployment limitation period. To~~

309 ~~avoid liability, such employing agency shall have a written~~
 310 ~~statement from the retiree that he or she is not retired from a~~
 311 ~~state-administered retirement system. Any retirement benefits~~
 312 ~~received by a retired member while reemployed in excess of 780~~
 313 ~~hours during the first 12 months of retirement shall be repaid~~
 314 ~~to the Retirement System Trust Fund, and retirement benefits~~
 315 ~~shall remain suspended until repayment is made. Benefits~~
 316 ~~suspended beyond the end of the retired member's first 12 months~~
 317 ~~of retirement shall apply toward repayment of benefits received~~
 318 ~~in violation of the 780-hour reemployment limitation.~~

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

321 175.191 Disability retirement.--For any municipality,
 322 special fire control district, chapter plan, local law
 323 municipality, local law special fire control district, or local
 324 law plan under this chapter:

325 (5) The benefit payable to a firefighter who retires from
 326 the service of a municipality or special fire control district
 327 due to total and permanent disability as a direct result of a
 328 disability is the monthly income payable for 10 years certain
 329 and life for which, if the firefighter's disability occurred in
 330 the line of duty, his or her monthly benefit shall be the
 331 accrued retirement benefit, but shall not be less than 42
 332 percent of his or her average monthly salary at the time of
 333 disability. If after 10 years of service the disability is other
 334 than in the line of duty, the firefighter's monthly benefit
 335 shall be the accrued normal retirement benefit, but shall not be
 336 less than 25 percent of his or her average monthly salary at the

337 | time of disability. Notwithstanding any provision to the
 338 | contrary, the monthly retirement benefit payable to a
 339 | firefighter, emergency medical technician, or paramedic who
 340 | retires from service due to total and permanent disability as a
 341 | result of a catastrophic injury as defined in s. 440.02(38),
 342 | Florida Statutes 2002, suffered in the line of duty where such
 343 | injury is a result of a felonious act of another shall be the
 344 | accrued retirement benefit but shall not be less than 80 percent
 345 | of his or her average monthly salary at the time of disability.

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

348 | 185.18 Disability retirement.--For any municipality,
 349 | chapter plan, local law municipality, or local law plan under
 350 | this chapter:

351 | (5) The benefit payable to a police officer who retires
 352 | from the service of the city with a total and permanent
 353 | disability as a result of a disability is the monthly income
 354 | payable for 10 years certain and life for which, if the police
 355 | officer's disability occurred in the line of duty, his or her
 356 | monthly benefit shall be the accrued retirement benefit, but
 357 | shall not be less than 42 percent of his or her average monthly
 358 | compensation as of the police officer's disability retirement
 359 | date. If after 10 years of service the disability is other than
 360 | in the line of duty, the police officer's monthly benefit shall
 361 | be the accrued normal retirement benefit, but shall not be less
 362 | than 25 percent of his or her average monthly compensation as of
 363 | the police officer's disability retirement date. Notwithstanding
 364 | any provision to the contrary, the monthly retirement benefit

365 payable to a police officer who retires from service due to
 366 total and permanent disability as a result of a catastrophic
 367 injury as defined in s. 440.02(38), Florida Statutes 2002,
 368 suffered in the line of duty where such injury is a result of a
 369 felonious act of another shall be the accrued retirement benefit
 370 but shall not be less than 80 percent of the officer's average
 371 monthly compensation as of the officer's disability retirement
 372 date.

373 Section 6. Effective July 1, 2005, in order to fund the
 374 benefits provided in s. 121.091, Florida Statutes, as amended by
 375 this act:

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

379 (2) The contribution rate that applies to the Special Risk
 380 Administrative Support Class of the defined benefit program of
 381 the Florida Retirement System shall be increased by 0.14
 382 percentage points.

383
 384 These increases shall be in addition to all other changes to
 385 such contribution rates which may be enacted into law to take
 386 effect on that date. The Division of Statutory Revision is
 387 directed to adjust accordingly the contribution rates set forth
 388 in s. 121.071, Florida Statutes.

389 Section 7. This act shall take effect July 1, 2005.