

CHAMBER ACTION

1 The Governmental Operations Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to retirement; providing a popular name;
7 providing legislative intent; providing a statement of
8 important state interest; amending s. 121.091, F.S.;
9 revising provisions relating to benefits payable for total
10 and permanent disability for certain Special Risk Class
11 members of the Florida Retirement System who are injured
12 in the line of duty; authorizing reemployment of a person
13 who retired with in-line-of-duty disability benefits by
14 employers not participating in a state-administered
15 retirement system; authorizing reemployment of a person
16 who retired with in-line-of-duty disability benefits by an
17 employer participating in a state-administered retirement
18 system after one calendar month; providing for
19 contribution rate increases to fund benefits provided in
20 s. 121.091, F.S., as amended; directing the Division of
21 Statutory Revision to adjust contribution rates set forth
22 in s. 121.71, F.S.; providing an effective date.

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

25

26 Section 1. This act may be cited as the "Officer Malcolm
27 Thompson Act."

28 Section 2. It is declared by the Legislature that
29 firefighters, emergency medical technicians, paramedics, law
30 enforcement officers, correctional officers, and correctional
31 probation officers, as defined in this act, perform state and
32 municipal functions; that it is their duty to protect life and
33 property at their own risk and peril; that it is their duty to
34 continuously instruct school personnel, public officials, and
35 private citizens about safety; and that their activities are
36 vital to the public safety. Therefore, the Legislature declares
37 that it is a proper and legitimate state purpose to provide a
38 uniform retirement system for the benefit of firefighters,
39 emergency medical technicians, paramedics, law enforcement
40 officers, correctional officers, and correctional probation
41 officers, as defined in this act, and intends, in implementing
42 the provisions of s. 14, Art. X of the State Constitution as
43 they relate to municipal and special district pension trust fund
44 systems and plans, that such retirement systems or plans be
45 managed, administered, operated, and funded in such manner as to
46 maximize the protection of pension trust funds. Pursuant to s.
47 18, Art. VII of the State Constitution, the Legislature hereby
48 determines and declares that the provisions of this act fulfill
49 an important state interest.

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

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52 | 121.091 Benefits payable under the system.--Benefits may
 53 | not be paid under this section unless the member has terminated
 54 | employment as provided in s. 121.021(39)(a) or begun
 55 | participation in the Deferred Retirement Option Program as
 56 | provided in subsection (13), and a proper application has been
 57 | filed in the manner prescribed by the department. The department
 58 | may cancel an application for retirement benefits when the
 59 | member or beneficiary fails to timely provide the information
 60 | and documents required by this chapter and the department's
 61 | rules. The department shall adopt rules establishing procedures
 62 | for application for retirement benefits and for the cancellation
 63 | of such application when the required information or documents
 64 | are not received.

65 | (4) DISABILITY RETIREMENT BENEFIT.--

66 | (b) Total and permanent disability.--

67 | 1. Except as provided in subparagraph 2., a member shall
 68 | be considered totally and permanently disabled if, in the
 69 | opinion of the administrator, he or she is prevented, by reason
 70 | of a medically determinable physical or mental impairment, from
 71 | rendering useful and efficient service as an officer or
 72 | employee.

73 | 2. A member of the Special Risk Class who is a law
 74 | enforcement officer, firefighter, correctional officer,
 75 | emergency medical technician, paramedic as described in s.
 76 | 121.021(15)(c), or community-based correctional probation
 77 | officer as described in s. 121.021(15)(d)1., shall be considered
 78 | totally and permanently disabled in the line of duty if he or
 79 | she is prevented, by reason of a medically determinable physical

80 or mental impairment caused by a job-related injury, from
 81 performing useful and efficient service in the position held,
 82 unless the administrator can provide competent medical evidence
 83 to the contrary.

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

85 (a)1. Except as provided in subparagraph 2., any person
 86 who is retired under this chapter, except under the disability
 87 retirement provisions of subsection (4), may be employed by an
 88 employer that does not participate in a state-administered
 89 retirement system and may receive compensation from that
 90 employment without limiting or restricting in any way the
 91 retirement benefits payable to that person.

92 2. Any member of the Special Risk Class who retired under
 93 the disability retirement provisions of subparagraph (4)(b)2.
 94 may be reemployed by any employer not participating in a state-
 95 administered retirement system in any position other than the
 96 position in which he or she was employed at the time of the
 97 disabling illness or injury and may receive compensation from
 98 that employment without limiting or restricting in any way the
 99 disability benefits payable to that person under the Florida
 100 Retirement System.

101 (b)1.a. Except as provided in sub-subparagraph b., any
 102 person who is retired under this chapter, except under the
 103 disability retirement provisions of subsection (4), may be
 104 reemployed by any private or public employer after retirement
 105 and receive retirement benefits and compensation from his or her
 106 employer without any limitations, except that a person may not
 107 receive both a salary from reemployment with any agency

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108 participating in the Florida Retirement System and retirement
109 benefits under this chapter for a period of 12 months
110 immediately subsequent to the date of retirement. However, a
111 DROP participant shall continue employment and receive a salary
112 during the period of participation in the Deferred Retirement
113 Option Program, as provided in subsection (13).

114 b. Any member of the Special Risk Class who retired under
115 the disability retirement provisions of subparagraph (4)(b)2.
116 may be reemployed by any employer participating in a state-
117 administered retirement system after having been retired for 1
118 calendar month, in accordance with s. 121.021(39). After 1
119 calendar month of retirement, any such retired member may be
120 reemployed in any position other than the one in which he or she
121 was employed at the time of disability retirement and may
122 receive compensation from that employment without limiting or
123 restricting in any way the retirement benefits payable to that
124 person under this chapter. Any retired member who is reemployed
125 within 1 calendar month after retirement shall void his or her
126 application for retirement benefits.

127 2. Any person to whom the limitation in subparagraph 1.
128 applies who violates such reemployment limitation and who is
129 reemployed with any agency participating in the Florida
130 Retirement System before completion of the 12-month limitation
131 period shall give timely notice of this fact in writing to the
132 employer and to the division and shall have his or her
133 retirement benefits suspended for the balance of the 12-month
134 limitation period. Any person employed in violation of this
135 paragraph and any employing agency which knowingly employs or

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136 | appoints such person without notifying the Division of
137 | Retirement to suspend retirement benefits shall be jointly and
138 | severally liable for reimbursement to the retirement trust fund
139 | of any benefits paid during the reemployment limitation period.
140 | To avoid liability, such employing agency shall have a written
141 | statement from the retiree that he or she is not retired from a
142 | state-administered retirement system. Any retirement benefits
143 | received while reemployed during this reemployment limitation
144 | period shall be repaid to the retirement trust fund, and
145 | retirement benefits shall remain suspended until such repayment
146 | has been made. Benefits suspended beyond the reemployment
147 | limitation shall apply toward repayment of benefits received in
148 | violation of the reemployment limitation.

149 | 3. A district school board may reemploy a retired member
150 | as a substitute or hourly teacher, education paraprofessional,
151 | transportation assistant, bus driver, or food service worker on
152 | a noncontractual basis after he or she has been retired for 1
153 | calendar month, in accordance with s. 121.021(39). A district
154 | school board may reemploy a retired member as instructional
155 | personnel, as defined in s. 1012.01(2)(a), on an annual
156 | contractual basis after he or she has been retired for 1
157 | calendar month, in accordance with s. 121.021(39). Any other
158 | retired member who is reemployed within 1 calendar month after
159 | retirement shall void his or her application for retirement
160 | benefits. District school boards reemploying such teachers,
161 | education paraprofessionals, transportation assistants, bus
162 | drivers, or food service workers are subject to the retirement
163 | contribution required by subparagraph 7.

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164 4. A community college board of trustees may reemploy a
165 retired member as an adjunct instructor, that is, an instructor
166 who is noncontractual and part-time, or as a participant in a
167 phased retirement program within the Florida Community College
168 System, after he or she has been retired for 1 calendar month,
169 in accordance with s. 121.021(39). Any retired member who is
170 reemployed within 1 calendar month after retirement shall void
171 his or her application for retirement benefits. Boards of
172 trustees reemploying such instructors are subject to the
173 retirement contribution required in subparagraph 7. A retired
174 member may be reemployed as an adjunct instructor for no more
175 than 780 hours during the first 12 months of retirement. Any
176 retired member reemployed for more than 780 hours during the
177 first 12 months of retirement shall give timely notice in
178 writing to the employer and to the division of the date he or
179 she will exceed the limitation. The division shall suspend his
180 or her retirement benefits for the remainder of the first 12
181 months of retirement. Any person employed in violation of this
182 subparagraph and any employing agency which knowingly employs or
183 appoints such person without notifying the Division of
184 Retirement to suspend retirement benefits shall be jointly and
185 severally liable for reimbursement to the retirement trust fund
186 of any benefits paid during the reemployment limitation period.
187 To avoid liability, such employing agency shall have a written
188 statement from the retiree that he or she is not retired from a
189 state-administered retirement system. Any retirement benefits
190 received by a retired member while reemployed in excess of 780
191 hours during the first 12 months of retirement shall be repaid

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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192 to the Retirement System Trust Fund, and retirement benefits
 193 shall remain suspended until repayment is made. Benefits
 194 suspended beyond the end of the retired member's first 12 months
 195 of retirement shall apply toward repayment of benefits received
 196 in violation of the 780-hour reemployment limitation.

197 5. The State University System may reemploy a retired
 198 member as an adjunct faculty member or as a participant in a
 199 phased retirement program within the State University System
 200 after the retired member has been retired for 1 calendar month,
 201 in accordance with s. 121.021(39). Any retired member who is
 202 reemployed within 1 calendar month after retirement shall void
 203 his or her application for retirement benefits. The State
 204 University System is subject to the retirement ~~retired~~
 205 contribution required in subparagraph 7., as appropriate. A
 206 retired member may be reemployed as an adjunct faculty member or
 207 a participant in a phased retirement program for no more than
 208 780 hours during the first 12 months of his or her retirement.
 209 Any retired member reemployed for more than 780 hours during the
 210 first 12 months of retirement shall give timely notice in
 211 writing to the employer and to the division of the date he or
 212 she will exceed the limitation. The division shall suspend his
 213 or her retirement benefits for the remainder of the first 12
 214 months of retirement. Any person employed in violation of this
 215 subparagraph and any employing agency which knowingly employs or
 216 appoints such person without notifying the Division of
 217 Retirement to suspend retirement benefits shall be jointly and
 218 severally liable for reimbursement to the retirement trust fund
 219 of any benefits paid during the reemployment limitation period.

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220 To avoid liability, such employing agency shall have a written
221 statement from the retiree that he or she is not retired from a
222 state-administered retirement system. Any retirement benefits
223 received by a retired member while reemployed in excess of 780
224 hours during the first 12 months of retirement shall be repaid
225 to the Retirement System Trust Fund, and retirement benefits
226 shall remain suspended until repayment is made. Benefits
227 suspended beyond the end of the retired member's first 12 months
228 of retirement shall apply toward repayment of benefits received
229 in violation of the 780-hour reemployment limitation.

230 6. The Board of Trustees of the Florida School for the
231 Deaf and the Blind may reemploy a retired member as a substitute
232 teacher, substitute residential instructor, or substitute nurse
233 on a noncontractual basis after he or she has been retired for 1
234 calendar month, in accordance with s. 121.021(39). Any retired
235 member who is reemployed within 1 calendar month after
236 retirement shall void his or her application for retirement
237 benefits. The Board of Trustees of the Florida School for the
238 Deaf and the Blind reemploying such teachers, residential
239 instructors, or nurses is subject to the retirement contribution
240 required by subparagraph 7. Reemployment of a retired member as
241 a substitute teacher, substitute residential instructor, or
242 substitute nurse is limited to 780 hours during the first 12
243 months of his or her retirement. Any retired member reemployed
244 for more than 780 hours during the first 12 months of retirement
245 shall give timely notice in writing to the employer and to the
246 division of the date he or she will exceed the limitation. The
247 division shall suspend his or her retirement benefits for the

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248 remainder of the first 12 months of retirement. Any person
 249 employed in violation of this subparagraph and any employing
 250 agency which knowingly employs or appoints such person without
 251 notifying the Division of Retirement to suspend retirement
 252 benefits shall be jointly and severally liable for reimbursement
 253 to the retirement trust fund of any benefits paid during the
 254 reemployment limitation period. To avoid liability, such
 255 employing agency shall have a written statement from the retiree
 256 that he or she is not retired from a state-administered
 257 retirement system. Any retirement benefits received by a retired
 258 member while reemployed in excess of 780 hours during the first
 259 12 months of retirement shall be repaid to the Retirement System
 260 Trust Fund, and his or her retirement benefits shall remain
 261 suspended until payment is made. Benefits suspended beyond the
 262 end of the retired member's first 12 months of retirement shall
 263 apply toward repayment of benefits received in violation of the
 264 780-hour reemployment limitation.

265 7. The employment by an employer of any retiree or DROP
 266 participant of any state-administered retirement system shall
 267 have no effect on the average final compensation or years of
 268 creditable service of the retiree or DROP participant. Prior to
 269 July 1, 1991, upon employment of any person, other than an
 270 elected officer as provided in s. 121.053, who has been retired
 271 under any state-administered retirement program, the employer
 272 shall pay retirement contributions in an amount equal to the
 273 unfunded actuarial liability portion of the employer
 274 contribution which would be required for regular members of the
 275 Florida Retirement System. Effective July 1, 1991, contributions

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276 shall be made as provided in s. 121.122 for retirees with
277 renewed membership or subsection (13) with respect to DROP
278 participants.

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

296 9. Any person who is holding an elective public office
297 which is covered by the Florida Retirement System and who is
298 concurrently employed in nonelected covered employment may elect
299 to retire while continuing employment in the elective public
300 office, provided that he or she shall be required to terminate
301 his or her nonelected covered employment. Any person who
302 exercises this election shall receive his or her retirement
303 benefits in addition to the compensation of the elective office

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304 without regard to the time limitations otherwise provided in
 305 this subsection. No person who seeks to exercise the provisions
 306 of this subparagraph, as the same existed prior to May 3, 1984,
 307 shall be deemed to be retired under those provisions, unless
 308 such person is eligible to retire under the provisions of this
 309 subparagraph, as amended by chapter 84-11, Laws of Florida.

310 10. The limitations of this paragraph apply to
 311 reemployment in any capacity with an "employer" as defined in s.
 312 121.021(10), irrespective of the category of funds from which
 313 the person is compensated.

314 11. Except as provided in subparagraph 12., an employing
 315 agency may reemploy a retired member as a firefighter or
 316 paramedic after the retired member has been retired for 1
 317 calendar month, in accordance with s. 121.021(39). Any retired
 318 member who is reemployed within 1 calendar month after
 319 retirement shall void his or her application for retirement
 320 benefits. The employing agency reemploying such firefighter or
 321 paramedic is subject to the retirement ~~retired~~ contribution
 322 required in subparagraph 7. ~~8.~~ Reemployment of a retired
 323 firefighter or paramedic is limited to no more than 780 hours
 324 during the first 12 months of his or her retirement. Any retired
 325 member reemployed for more than 780 hours during the first 12
 326 months of retirement shall give timely notice in writing to the
 327 employer and to the division of the date he or she will exceed
 328 the limitation. The division shall suspend his or her retirement
 329 benefits for the remainder of the first 12 months of retirement.
 330 Any person employed in violation of this subparagraph and any
 331 employing agency which knowingly employs or appoints such person

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

346 12. An employing agency may reemploy a retired member who
347 retired under the disability provisions of subparagraph
348 (4)(b)2., as a law enforcement officer, firefighter,
349 correctional officer, emergency medical technician, paramedic,
350 or a community-based correctional probation officer, after the
351 retired member has been retired for 1 calendar month, in
352 accordance with s. 121.021(39). Such retired member may not be
353 reemployed with any employer in the position he or she held at
354 the time of the disabling illness or injury. Any retired member
355 who is reemployed within 1 calendar month after retirement shall
356 void his or her application for retirement benefits. The
357 employing agency reemploying such a member is subject to the
358 retirement contribution required in subparagraph 7.

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359 Section 4. Effective July 1, 2005, in order to fund the
360 benefit improvements provided in s. 121.091, Florida Statutes,
361 as amended by this act, the contribution rate that applies to
362 the Special Risk Class of the defined benefit program of the
363 Florida Retirement System shall be increased by percentage
364 points. This increase shall be in addition to all other changes
365 to such contribution rates which may be enacted into law to take
366 effect on that date. The Division of Statutory Revision is
367 directed to adjust accordingly the contribution rates set forth
368 in s. 121.71, Florida Statutes.

369 Section 5. This act shall take effect July 1, 2005.