

CHAMBER ACTION

1 The Fiscal Council recommends the following:

2  
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:

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

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

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

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 0.31 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.