

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representative Brummer offered the following:

2
3 **Amendment (with title amendment)**

4 Remove line 65 and insert:

5 Section 5. Sections 6 through 8 of this act may be cited
6 as the "Officer Malcolm Thompson Act."

7 Section 6. It is declared by the Legislature that members
8 of the Special Risk Class, as defined in this act, perform state
9 and municipal functions; that it is their duty to protect life
10 and property at their own risk and peril; that it is their duty
11 to continuously instruct school personnel, public officials, and
12 private citizens about safety; and that their activities are
13 vital to the public safety. Therefore, the Legislature declares
14 that it is a proper and legitimate state purpose to provide a
15 uniform retirement system for the benefit of members of the
16 Special Risk Class, as defined in this act, and intends, in
17 implementing the provisions of s. 14, Art. X of the State

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18 Constitution as they relate to municipal and special district
19 pension trust fund systems and plans, that such retirement
20 systems or plans be managed, administered, operated, and funded
21 in such manner as to maximize the protection of pension trust
22 funds. Pursuant to s. 18, Art. VII of the State Constitution,
23 the Legislature hereby determines and declares that the
24 provisions of this act fulfill an important state interest.

25 Section 7. Subsection (9) of section 121.091, Florida
26 Statutes, is amended to read:

27 121.091 Benefits payable under the system.--Benefits may
28 not be paid under this section unless the member has terminated
29 employment as provided in s. 121.021(39)(a) or begun
30 participation in the Deferred Retirement Option Program as
31 provided in subsection (13), and a proper application has been
32 filed in the manner prescribed by the department. The department
33 may cancel an application for retirement benefits when the
34 member or beneficiary fails to timely provide the information
35 and documents required by this chapter and the department's
36 rules. The department shall adopt rules establishing procedures
37 for application for retirement benefits and for the cancellation
38 of such application when the required information or documents
39 are not received.

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

41 (a)1. Except as provided in subparagraph 2., any person
42 who is retired under this chapter, except under the disability
43 retirement provisions of subsection (4), may be employed by an
44 employer that does not participate in a state-administered
45 retirement system and may receive compensation from that

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46 employment without limiting or restricting in any way the
47 retirement benefits payable to that person.

48 2. Any member of the Special Risk Class who retired under
49 the disability retirement provisions of paragraph (4)(b) may be
50 reemployed by any employer not participating in a state-
51 administered retirement system in any position other than the
52 position in which he or she was employed at the time of the
53 disabling illness or injury and may receive compensation from
54 that employment without limiting or restricting in any way the
55 disability benefits payable to that person under the Florida
56 Retirement System.

57 (b)1.a. Except as provided in sub-subparagraph b., any
58 person who is retired under this chapter, except under the
59 disability retirement provisions of subsection (4), may be
60 reemployed by any private or public employer after retirement
61 and receive retirement benefits and compensation from his or her
62 employer without any limitations, except that a person may not
63 receive both a salary from reemployment with any agency
64 participating in the Florida Retirement System and retirement
65 benefits under this chapter for a period of 12 months
66 immediately subsequent to the date of retirement. However, a
67 DROP participant shall continue employment and receive a salary
68 during the period of participation in the Deferred Retirement
69 Option Program, as provided in subsection (13).

70 b. Any member of the Special Risk Class who retired under
71 the disability retirement provisions of paragraph (4)(b) may be
72 reemployed by any employer participating in a state-administered
73 retirement system after having been retired for 1 calendar
74 month, in accordance with s. 121.021(39), provided such

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75 reemployment is not in the Special Risk Class. After 1 calendar
76 month of retirement, any such retired member may be reemployed
77 in any position other than the one in which he or she was
78 employed at the time of disability retirement and may receive
79 compensation from that employment without limiting or
80 restricting in any way the retirement benefits payable to that
81 person under this chapter. Any retired member who is reemployed
82 within 1 calendar month after retirement shall void his or her
83 application for retirement benefits.

84 2. Any person to whom the limitation in subparagraph 1.
85 applies who violates such reemployment limitation and who is
86 reemployed with any agency participating in the Florida
87 Retirement System before completion of the 12-month limitation
88 period shall give timely notice of this fact in writing to the
89 employer and to the division and shall have his or her
90 retirement benefits suspended for the balance of the 12-month
91 limitation period. Any person employed in violation of this
92 paragraph and any employing agency which knowingly employs or
93 appoints such person without notifying the Division of
94 Retirement to suspend retirement benefits shall be jointly and
95 severally liable for reimbursement to the retirement trust fund
96 of any benefits paid during the reemployment limitation period.
97 To avoid liability, such employing agency shall have a written
98 statement from the retiree that he or she is not retired from a
99 state-administered retirement system. Any retirement benefits
100 received while reemployed during this reemployment limitation
101 period shall be repaid to the retirement trust fund, and
102 retirement benefits shall remain suspended until such repayment
103 has been made. Benefits suspended beyond the reemployment

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104 limitation shall apply toward repayment of benefits received in
105 violation of the reemployment limitation.

106 3. A district school board may reemploy a retired member
107 as a substitute or hourly teacher, education paraprofessional,
108 transportation assistant, bus driver, or food service worker on
109 a noncontractual basis after he or she has been retired for 1
110 calendar month, in accordance with s. 121.021(39). A district
111 school board may reemploy a retired member as instructional
112 personnel, as defined in s. 1012.01(2)(a), on an annual
113 contractual basis after he or she has been retired for 1
114 calendar month, in accordance with s. 121.021(39). Any other
115 retired member who is reemployed within 1 calendar month after
116 retirement shall void his or her application for retirement
117 benefits. District school boards reemploying such teachers,
118 education paraprofessionals, transportation assistants, bus
119 drivers, or food service workers are subject to the retirement
120 contribution required by subparagraph 7.

121 4. A community college board of trustees may reemploy a
122 retired member as an adjunct instructor, that is, an instructor
123 who is noncontractual and part-time, or as a participant in a
124 phased retirement program within the Florida Community College
125 System, after he or she has been retired for 1 calendar month,
126 in accordance with s. 121.021(39). Any retired member who is
127 reemployed within 1 calendar month after retirement shall void
128 his or her application for retirement benefits. Boards of
129 trustees reemploying such instructors are subject to the
130 retirement contribution required in subparagraph 7. A retired
131 member may be reemployed as an adjunct instructor for no more
132 than 780 hours during the first 12 months of retirement. Any

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133 | retired member reemployed for more than 780 hours during the
134 | first 12 months of retirement shall give timely notice in
135 | writing to the employer and to the division of the date he or
136 | she will exceed the limitation. The division shall suspend his
137 | or her retirement benefits for the remainder of the first 12
138 | months of retirement. Any person employed in violation of this
139 | subparagraph and any employing agency which knowingly employs or
140 | appoints such person without notifying the Division of
141 | Retirement to suspend retirement benefits shall be jointly and
142 | severally liable for reimbursement to the retirement trust fund
143 | of any benefits paid during the reemployment limitation period.
144 | To avoid liability, such employing agency shall have a written
145 | statement from the retiree that he or she is not retired from a
146 | state-administered retirement system. Any retirement benefits
147 | received by a retired member while reemployed in excess of 780
148 | hours during the first 12 months of retirement shall be repaid
149 | to the Retirement System Trust Fund, and retirement benefits
150 | shall remain suspended until repayment is made. Benefits
151 | suspended beyond the end of the retired member's first 12 months
152 | of retirement shall apply toward repayment of benefits received
153 | in violation of the 780-hour reemployment limitation.

154 | 5. The State University System may reemploy a retired
155 | member as an adjunct faculty member or as a participant in a
156 | phased retirement program within the State University System
157 | after the retired member has been retired for 1 calendar month,
158 | in accordance with s. 121.021(39). Any retired member who is
159 | reemployed within 1 calendar month after retirement shall void
160 | his or her application for retirement benefits. The State
161 | University System is subject to the retirement ~~retired~~

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162 contribution required in subparagraph 7., as appropriate. A
163 retired member may be reemployed as an adjunct faculty member or
164 a participant in a phased retirement program for no more than
165 780 hours during the first 12 months of his or her retirement.
166 Any retired member reemployed for more than 780 hours during the
167 first 12 months of retirement shall give timely notice in
168 writing to the employer and to the division of the date he or
169 she will exceed the limitation. The division shall suspend his
170 or her retirement benefits for the remainder of the first 12
171 months of retirement. Any person employed in violation of this
172 subparagraph and any employing agency which knowingly employs or
173 appoints such person without notifying the Division of
174 Retirement to suspend retirement benefits shall be jointly and
175 severally liable for reimbursement to the retirement trust fund
176 of any benefits paid during the reemployment limitation period.
177 To avoid liability, such employing agency shall have a written
178 statement from the retiree that he or she is not retired from a
179 state-administered retirement system. Any retirement benefits
180 received by a retired member while reemployed in excess of 780
181 hours during the first 12 months of retirement shall be repaid
182 to the Retirement System Trust Fund, and retirement benefits
183 shall remain suspended until repayment is made. Benefits
184 suspended beyond the end of the retired member's first 12 months
185 of retirement shall apply toward repayment of benefits received
186 in violation of the 780-hour reemployment limitation.

187 6. The Board of Trustees of the Florida School for the
188 Deaf and the Blind may reemploy a retired member as a substitute
189 teacher, substitute residential instructor, or substitute nurse
190 on a noncontractual basis after he or she has been retired for 1
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191 calendar month, in accordance with s. 121.021(39). Any retired
192 member who is reemployed within 1 calendar month after
193 retirement shall void his or her application for retirement
194 benefits. The Board of Trustees of the Florida School for the
195 Deaf and the Blind reemploying such teachers, residential
196 instructors, or nurses is subject to the retirement contribution
197 required by subparagraph 7. Reemployment of a retired member as
198 a substitute teacher, substitute residential instructor, or
199 substitute nurse is limited to 780 hours during the first 12
200 months of his or her retirement. Any retired member reemployed
201 for more than 780 hours during the first 12 months of retirement
202 shall give timely notice in writing to the employer and to the
203 division of the date he or she will exceed the limitation. The
204 division shall suspend his or her retirement benefits for the
205 remainder of the first 12 months of retirement. Any person
206 employed in violation of this subparagraph and any employing
207 agency which knowingly employs or appoints such person without
208 notifying the Division of Retirement to suspend retirement
209 benefits shall be jointly and severally liable for reimbursement
210 to the retirement trust fund of any benefits paid during the
211 reemployment limitation period. To avoid liability, such
212 employing agency shall have a written statement from the retiree
213 that he or she is not retired from a state-administered
214 retirement system. Any retirement benefits received by a retired
215 member while reemployed in excess of 780 hours during the first
216 12 months of retirement shall be repaid to the Retirement System
217 Trust Fund, and his or her retirement benefits shall remain
218 suspended until payment is made. Benefits suspended beyond the
219 end of the retired member's first 12 months of retirement shall
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220 apply toward repayment of benefits received in violation of the
221 780-hour reemployment limitation.

222 7. The employment by an employer of any retiree or DROP
223 participant of any state-administered retirement system shall
224 have no effect on the average final compensation or years of
225 creditable service of the retiree or DROP participant. Prior to
226 July 1, 1991, upon employment of any person, other than an
227 elected officer as provided in s. 121.053, who has been retired
228 under any state-administered retirement program, the employer
229 shall pay retirement contributions in an amount equal to the
230 unfunded actuarial liability portion of the employer
231 contribution which would be required for regular members of the
232 Florida Retirement System. Effective July 1, 1991, contributions
233 shall be made as provided in s. 121.122 for retirees with
234 renewed membership or subsection (13) with respect to DROP
235 participants.

236 8. Any person who has previously retired and who is
237 holding an elective public office or an appointment to an
238 elective public office eligible for the Elected Officers' Class
239 on or after July 1, 1990, shall be enrolled in the Florida
240 Retirement System as provided in s. 121.053(1)(b) or, if holding
241 an elective public office that does not qualify for the Elected
242 Officers' Class on or after July 1, 1991, shall be enrolled in
243 the Florida Retirement System as provided in s. 121.122, and
244 shall continue to receive retirement benefits as well as
245 compensation for the elected officer's service for as long as he
246 or she remains in elective office. However, any retired member
247 who served in an elective office prior to July 1, 1990,
248 suspended his or her retirement benefit, and had his or her
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249 Florida Retirement System membership reinstated shall, upon
250 retirement from such office, have his or her retirement benefit
251 recalculated to include the additional service and compensation
252 earned.

253 9. Any person who is holding an elective public office
254 which is covered by the Florida Retirement System and who is
255 concurrently employed in nonelected covered employment may elect
256 to retire while continuing employment in the elective public
257 office, provided that he or she shall be required to terminate
258 his or her nonelected covered employment. Any person who
259 exercises this election shall receive his or her retirement
260 benefits in addition to the compensation of the elective office
261 without regard to the time limitations otherwise provided in
262 this subsection. No person who seeks to exercise the provisions
263 of this subparagraph, as the same existed prior to May 3, 1984,
264 shall be deemed to be retired under those provisions, unless
265 such person is eligible to retire under the provisions of this
266 subparagraph, as amended by chapter 84-11, Laws of Florida.

267 10. The limitations of this paragraph apply to
268 reemployment in any capacity with an "employer" as defined in s.
269 121.021(10), irrespective of the category of funds from which
270 the person is compensated.

271 11. Except as provided in subparagraph 12., an employing
272 agency may reemploy a retired member as a firefighter or
273 paramedic after the retired member has been retired for 1
274 calendar month, in accordance with s. 121.021(39). Any retired
275 member who is reemployed within 1 calendar month after
276 retirement shall void his or her application for retirement
277 benefits. The employing agency reemploying such firefighter or

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278 paramedic is subject to the retirement ~~retired~~ contribution
279 required in subparagraph 7. ~~8.~~ Reemployment of a retired
280 firefighter or paramedic is limited to no more than 780 hours
281 during the first 12 months of his or her retirement. Any retired
282 member reemployed for more than 780 hours during the first 12
283 months of retirement shall give timely notice in writing to the
284 employer and to the division of the date he or she will exceed
285 the limitation. The division shall suspend his or her retirement
286 benefits for the remainder of the first 12 months of retirement.
287 Any person employed in violation of this subparagraph and any
288 employing agency which knowingly employs or appoints such person
289 without notifying the Division of Retirement to suspend
290 retirement benefits shall be jointly and severally liable for
291 reimbursement to the Retirement System Trust Fund of any
292 benefits paid during the reemployment limitation period. To
293 avoid liability, such employing agency shall have a written
294 statement from the retiree that he or she is not retired from a
295 state-administered retirement system. Any retirement benefits
296 received by a retired member while reemployed in excess of 780
297 hours during the first 12 months of retirement shall be repaid
298 to the Retirement System Trust Fund, and retirement benefits
299 shall remain suspended until repayment is made. Benefits
300 suspended beyond the end of the retired member's first 12 months
301 of retirement shall apply toward repayment of benefits received
302 in violation of the 780-hour reemployment limitation.

303 12. An employing agency may reemploy a retired member who
304 retired under the disability provisions of paragraph (4) (b) as a
305 law enforcement officer, firefighter, correctional officer,
306 emergency medical technician, or paramedic as described in s.

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307 121.021(15)(c), a community-based correctional probation officer
308 as described in s. 121.021(15)(d)1., or a nurse as described in
309 s. 121.0515(2)(f) after the retired member has been retired for
310 1 calendar month, in accordance with s. 121.021(39). Such
311 retired member may not be reemployed with any employer in the
312 position he or she held at the time of the disabling illness or
313 injury. Any retired member who is reemployed within 1 calendar
314 month after retirement shall void his or her application for
315 retirement benefits. The employing agency reemploying such a
316 member is subject to the retirement contribution required in
317 subparagraph 7.

318 Section 8. Effective July 1, 2006, in order to fund the
319 benefit improvements provided in s. 121.091, Florida Statutes,
320 as amended by this act, the contribution rate that applies to
321 the Special Risk Class of the defined benefit program of the
322 Florida Retirement System shall be increased by 0.31 percentage
323 points. This increase shall be in addition to all other changes
324 to such contribution rates which may be enacted into law to take
325 effect on that date. The Division of Statutory Revision is
326 directed to adjust accordingly the contribution rates set forth
327 in s. 121.71, Florida Statutes.

328 Section 9. The Division of Retirement within the
329 Department of Management Services shall request from the
330 Internal Revenue Service, by October 1, 2006, a letter ruling
331 regarding the provisions of sections 5 through 8 of this act.

332 Section 10. This act shall take effect July 1, 2006,
333 except that sections 5 through 8 shall take effect upon the
334 receipt of a favorable letter ruling from the Internal Revenue
335 Service.

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T I T L E A M E N D M E N T =====
Remove lines 16-17 and insert:
a declaration of important state interest; providing a short
title; providing legislative intent; providing a statement of
important state interest; amending s. 121.091, F.S.; authorizing
reemployment of a person who retired with in-line-of-duty
disability benefits by employers not participating in a state-
administered retirement system; authorizing reemployment of a
person who retired with in-line-of-duty disability benefits by
an employer participating in a state-administered retirement
system after 1 calendar month under certain circumstances;
providing for contribution rate increases to fund benefits
provided in s. 121.091, F.S., as amended; directing the Division
of Statutory Revision to adjust contribution rates set forth in
s. 121.71, F.S.; requiring the Division of Retirement to request
a letter ruling from the Internal Revenue Service; providing for
certain contingent effect; providing effective dates.