

1 A bill to be entitled

2 An act relating to retirement; providing a short title;  
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; authorizing reemployment of a person  
9 who retired with in-line-of-duty disability benefits by  
10 employers not participating in a state-administered  
11 retirement system; authorizing reemployment of a person  
12 who retired with in-line-of-duty disability benefits by an  
13 employer participating in a state-administered retirement  
14 system after 1 calendar month; providing for contribution  
15 rate increases to fund benefits provided in s. 121.091,  
16 F.S., as amended; directing the Division of Statutory  
17 Revision to adjust contribution rates set forth in s.  
18 121.71, F.S.; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

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

24 Section 2. It is declared by the Legislature that  
25 firefighters, emergency medical technicians, paramedics, law  
26 enforcement officers, correctional officers, and correctional  
27 probation officers, as described in this act, perform state and  
28 municipal functions; that it is their duty to protect life and

HB 133

2007

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

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

48 121.091 Benefits payable under the system.--Benefits may  
49 not be paid under this section unless the member has terminated  
50 employment as provided in s. 121.021(39)(a) or begun  
51 participation in the Deferred Retirement Option Program as  
52 provided in subsection (13), and a proper application has been  
53 filed in the manner prescribed by the department. The department  
54 may cancel an application for retirement benefits when the  
55 member or beneficiary fails to timely provide the information  
56 and documents required by this chapter and the department's

HB 133

2007

57 rules. The department shall adopt rules establishing procedures  
58 for application for retirement benefits and for the cancellation  
59 of such application when the required information or documents  
60 are not received.

61 (4) DISABILITY RETIREMENT BENEFIT.--

62 (b) Total and permanent disability.--

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

69 2. A member of the Special Risk Class who is a law  
70 enforcement officer, firefighter, correctional officer,  
71 emergency medical technician, or paramedic as described in s.  
72 121.021(15)(c) or a community-based correctional probation  
73 officer as described in s. 121.021(15)(d)1. shall be considered  
74 totally and permanently disabled in the line of duty if he or  
75 she is prevented, by reason of a medically determinable physical  
76 or mental impairment caused by a job-related injury, from  
77 performing useful and efficient service in the position held,  
78 unless the administrator can provide competent medical evidence  
79 to the contrary.

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

81 (a)1. Except as provided in subparagraph 2., any person  
82 who is retired under this chapter, except under the disability  
83 retirement provisions of subsection (4), may be employed by an  
84 employer that does not participate in a state-administered

HB 133

2007

85 retirement system and may receive compensation from that  
86 employment without limiting or restricting in any way the  
87 retirement benefits payable to that person.

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

97 (b)1.a. Except as provided in sub-subparagraph b., any  
98 person who is retired under this chapter, except under the  
99 disability retirement provisions of subsection (4), may be  
100 reemployed by any private or public employer after retirement  
101 and receive retirement benefits and compensation from his or her  
102 employer without any limitations, except that a person may not  
103 receive both a salary from reemployment with any agency  
104 participating in the Florida Retirement System and retirement  
105 benefits under this chapter for a period of 12 months  
106 immediately subsequent to the date of retirement. However, a  
107 DROP participant shall continue employment and receive a salary  
108 during the period of participation in the Deferred Retirement  
109 Option Program, as provided in subsection (13).

110 b. Any member of the Special Risk Class who retired under  
111 the disability retirement provisions of subparagraph (4)(b)2.  
112 may be reemployed by any employer participating in a state-

HB 133

2007

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

123       2. Any person to whom the limitation in subparagraph 1.  
124 applies who violates such reemployment limitation and who is  
125 reemployed with any agency participating in the Florida  
126 Retirement System before completion of the 12-month limitation  
127 period shall give timely notice of this fact in writing to the  
128 employer and to the division and shall have his or her  
129 retirement benefits suspended for the balance of the 12-month  
130 limitation period. Any person employed in violation of this  
131 paragraph and any employing agency which knowingly employs or  
132 appoints such person without notifying the Division of  
133 Retirement to suspend retirement benefits shall be jointly and  
134 severally liable for reimbursement to the retirement trust fund  
135 of any benefits paid during the reemployment limitation period.  
136 To avoid liability, such employing agency shall have a written  
137 statement from the retiree that he or she is not retired from a  
138 state-administered retirement system. Any retirement benefits  
139 received while reemployed during this reemployment limitation  
140 period shall be repaid to the retirement trust fund, and

141 retirement benefits shall remain suspended until such repayment  
142 has been made. Benefits suspended beyond the reemployment  
143 limitation shall apply toward repayment of benefits received in  
144 violation of the reemployment limitation.

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

160 4. A community college board of trustees may reemploy a  
161 retired member as an adjunct instructor, that is, an instructor  
162 who is noncontractual and part-time, or as a participant in a  
163 phased retirement program within the Florida Community College  
164 System, after he or she has been retired for 1 calendar month,  
165 in accordance with s. 121.021(39). Any retired member who is  
166 reemployed within 1 calendar month after retirement shall void  
167 his or her application for retirement benefits. Boards of  
168 trustees reemploying such instructors are subject to the

HB 133

2007

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

193 5. The State University System may reemploy a retired  
194 member as an adjunct faculty member or as a participant in a  
195 phased retirement program within the State University System  
196 after the retired member has been retired for 1 calendar month,

197 | in accordance with s. 121.021(39). Any retired member who is  
198 | reemployed within 1 calendar month after retirement shall void  
199 | his or her application for retirement benefits. The State  
200 | University System is subject to the retirement ~~retired~~  
201 | contribution required in subparagraph 7., as appropriate. A  
202 | retired member may be reemployed as an adjunct faculty member or  
203 | a participant in a phased retirement program for no more than  
204 | 780 hours during the first 12 months of his or her retirement.  
205 | Any retired member reemployed for more than 780 hours during the  
206 | first 12 months of retirement shall give timely notice in  
207 | writing to the employer and to the division of the date he or  
208 | she will exceed the limitation. The division shall suspend his  
209 | or her retirement benefits for the remainder of the first 12  
210 | months of retirement. Any person employed in violation of this  
211 | subparagraph and any employing agency which knowingly employs or  
212 | appoints such person without notifying the Division of  
213 | Retirement to suspend retirement benefits shall be jointly and  
214 | severally liable for reimbursement to the retirement trust fund  
215 | of any benefits paid during the reemployment limitation period.  
216 | To avoid liability, such employing agency shall have a written  
217 | statement from the retiree that he or she is not retired from a  
218 | state-administered retirement system. Any retirement benefits  
219 | received by a retired member while reemployed in excess of 780  
220 | hours during the first 12 months of retirement shall be repaid  
221 | to the Retirement System Trust Fund, and retirement benefits  
222 | shall remain suspended until repayment is made. Benefits  
223 | suspended beyond the end of the retired member's first 12 months  
224 | of retirement shall apply toward repayment of benefits received



225 in violation of the 780-hour reemployment limitation.

226 6. The Board of Trustees of the Florida School for the  
227 Deaf and the Blind may reemploy a retired member as a substitute  
228 teacher, substitute residential instructor, or substitute nurse  
229 on a noncontractual basis after he or she has been retired for 1  
230 calendar month, in accordance with s. 121.021(39). Any retired  
231 member who is reemployed within 1 calendar month after  
232 retirement shall void his or her application for retirement  
233 benefits. The Board of Trustees of the Florida School for the  
234 Deaf and the Blind reemploying such teachers, residential  
235 instructors, or nurses is subject to the retirement contribution  
236 required by subparagraph 7. Reemployment of a retired member as  
237 a substitute teacher, substitute residential instructor, or  
238 substitute nurse is limited to 780 hours during the first 12  
239 months of his or her retirement. Any retired member reemployed  
240 for more than 780 hours during the first 12 months of retirement  
241 shall give timely notice in writing to the employer and to the  
242 division of the date he or she will exceed the limitation. The  
243 division shall suspend his or her retirement benefits for the  
244 remainder of the first 12 months of retirement. Any person  
245 employed in violation of this subparagraph and any employing  
246 agency which knowingly employs or appoints such person without  
247 notifying the Division of Retirement to suspend retirement  
248 benefits shall be jointly and severally liable for reimbursement  
249 to the retirement trust fund of any benefits paid during the  
250 reemployment limitation period. To avoid liability, such  
251 employing agency shall have a written statement from the retiree  
252 that he or she is not retired from a state-administered

253 retirement system. Any retirement benefits received by a retired  
254 member while reemployed in excess of 780 hours during the first  
255 12 months of retirement shall be repaid to the Retirement System  
256 Trust Fund, and his or her retirement benefits shall remain  
257 suspended until payment is made. Benefits suspended beyond the  
258 end of the retired member's first 12 months of retirement shall  
259 apply toward repayment of benefits received in violation of the  
260 780-hour reemployment limitation.

261 7. The employment by an employer of any retiree or DROP  
262 participant of any state-administered retirement system shall  
263 have no effect on the average final compensation or years of  
264 creditable service of the retiree or DROP participant. Prior to  
265 July 1, 1991, upon employment of any person, other than an  
266 elected officer as provided in s. 121.053, who has been retired  
267 under any state-administered retirement program, the employer  
268 shall pay retirement contributions in an amount equal to the  
269 unfunded actuarial liability portion of the employer  
270 contribution which would be required for regular members of the  
271 Florida Retirement System. Effective July 1, 1991, contributions  
272 shall be made as provided in s. 121.122 for retirees with  
273 renewed membership or subsection (13) with respect to DROP  
274 participants.

275 8. Any person who has previously retired and who is  
276 holding an elective public office or an appointment to an  
277 elective public office eligible for the Elected Officers' Class  
278 on or after July 1, 1990, shall be enrolled in the Florida  
279 Retirement System as provided in s. 121.053(1)(b) or, if holding  
280 an elective public office that does not qualify for the Elected

281 Officers' Class on or after July 1, 1991, shall be enrolled in  
282 the Florida Retirement System as provided in s. 121.122, and  
283 shall continue to receive retirement benefits as well as  
284 compensation for the elected officer's service for as long as he  
285 or she remains in elective office. However, any retired member  
286 who served in an elective office prior to July 1, 1990,  
287 suspended his or her retirement benefit, and had his or her  
288 Florida Retirement System membership reinstated shall, upon  
289 retirement from such office, have his or her retirement benefit  
290 recalculated to include the additional service and compensation  
291 earned.

292 9. Any person who is holding an elective public office  
293 which is covered by the Florida Retirement System and who is  
294 concurrently employed in nonelected covered employment may elect  
295 to retire while continuing employment in the elective public  
296 office, provided that he or she shall be required to terminate  
297 his or her nonelected covered employment. Any person who  
298 exercises this election shall receive his or her retirement  
299 benefits in addition to the compensation of the elective office  
300 without regard to the time limitations otherwise provided in  
301 this subsection. No person who seeks to exercise the provisions  
302 of this subparagraph, as the same existed prior to May 3, 1984,  
303 shall be deemed to be retired under those provisions, unless  
304 such person is eligible to retire under the provisions of this  
305 subparagraph, as amended by chapter 84-11, Laws of Florida.

306 10. The limitations of this paragraph apply to  
307 reemployment in any capacity with an "employer" as defined in s.  
308 121.021(10), irrespective of the category of funds from which

309 the person is compensated.

310 11. Except as provided in subparagraph 12., an employing  
311 agency may reemploy a retired member as a firefighter or  
312 paramedic after the retired member has been retired for 1  
313 calendar month, in accordance with s. 121.021(39). Any retired  
314 member who is reemployed within 1 calendar month after  
315 retirement shall void his or her application for retirement  
316 benefits. The employing agency reemploying such firefighter or  
317 paramedic is subject to the retirement ~~retired~~ contribution  
318 required in subparagraph 7. ~~8.~~ Reemployment of a retired  
319 firefighter or paramedic is limited to no more than 780 hours  
320 during the first 12 months of his or her retirement. Any retired  
321 member reemployed for more than 780 hours during the first 12  
322 months of retirement shall give timely notice in writing to the  
323 employer and to the division of the date he or she will exceed  
324 the limitation. The division shall suspend his or her retirement  
325 benefits for the remainder of the first 12 months of retirement.  
326 Any person employed in violation of this subparagraph and any  
327 employing agency which knowingly employs or appoints such person  
328 without notifying the Division of Retirement to suspend  
329 retirement benefits shall be jointly and severally liable for  
330 reimbursement to the Retirement System Trust Fund of any  
331 benefits paid during the reemployment limitation period. To  
332 avoid liability, such employing agency shall have a written  
333 statement from the retiree that he or she is not retired from a  
334 state-administered retirement system. Any retirement benefits  
335 received by a retired member while reemployed in excess of 780  
336 hours during the first 12 months of retirement shall be repaid

HB 133

2007

337 to the Retirement System Trust Fund, and retirement benefits  
338 shall remain suspended until repayment is made. Benefits  
339 suspended beyond the end of the retired member's first 12 months  
340 of retirement shall apply toward repayment of benefits received  
341 in violation of the 780-hour reemployment limitation.

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

355 (c) The provisions of this subsection apply to retirees,  
356 as defined in s. 121.4501(2)(j), of the Public Employee Optional  
357 Retirement Program created in part II, subject to the following  
358 conditions:

359 1. Such retirees may not be reemployed with an employer  
360 participating in the Florida Retirement System as provided in  
361 paragraph (b) until such person has been retired for 3 calendar  
362 months, unless the participant has reached the normal retirement  
363 requirements of the defined benefit plan as provided in s.  
364 121.021(29).

HB 133

2007

365           2. Such retiree employed in violation of this subsection  
366 and any employing agency that knowingly employs or appoints such  
367 person shall be jointly and severally liable for reimbursement  
368 of any benefits paid to the retirement trust fund from which the  
369 benefits were paid, including the Retirement System Trust Fund  
370 and the Public Employee Optional Retirement Program Trust Fund,  
371 as appropriate. To avoid liability, such employing agency must  
372 have a written statement from the retiree that he or she is not  
373 retired from a state-administered retirement system.

374           Section 4. Effective July 1, 2007, in order to fund the  
375 benefit improvements provided in s. 121.091, Florida Statutes,  
376 as amended by this act, the contribution rate that applies to  
377 the Special Risk Class of the defined benefit program of the  
378 Florida Retirement System shall be increased by 0.31 percentage  
379 points. This increase shall be in addition to all other changes  
380 to such contribution rates which may be enacted into law to take  
381 effect on that date. The Division of Statutory Revision is  
382 directed to adjust accordingly the contribution rates set forth  
383 in s. 121.71, Florida Statutes.

384           Section 5. This act shall take effect July 1, 2007.