

1                                   A bill to be entitled  
 2           An act relating to retirement; providing legislative  
 3           intent; providing a statement of important state interest;  
 4           amending s. 121.091, F.S.; revising provisions relating to  
 5           benefits payable for total and permanent disability for  
 6           certain Special Risk Class members of the Florida  
 7           Retirement System who are injured in the line of duty;  
 8           authorizing reemployment of a person who retired with in-  
 9           line-of-duty disability benefits by employers not  
 10          participating in a state-administered retirement system;  
 11          authorizing reemployment of a person who retired with in-  
 12          line-of-duty disability benefits by an employer  
 13          participating in a state-administered retirement system  
 14          after 1 calendar month; providing for contribution rate  
 15          increases to fund benefits provided in s. 121.091, F.S.,  
 16          as amended; directing the Division of Statutory Revision  
 17          to adjust contribution rates set forth in s. 121.71, F.S.;  
 18          requiring the Division of Retirement to request a letter  
 19          ruling from the Internal Revenue Service; providing for  
 20          certain contingent effect; providing effective dates.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

23  
 24           Section 1. 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

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 2. 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

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

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-

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, may be  
118 reemployed in any position other than a position that is  
119 included in the Special Risk Class, and may receive compensation  
120 from that employment without limiting or restricting in any way  
121 the retirement benefits payable to that person under this  
122 chapter. Any retired member who is reemployed within 1 calendar  
123 month after retirement shall void his or her application for  
124 retirement benefits. Any retired member who is reemployed in a  
125 Special Risk Class position must terminate his or her disability  
126 retirement benefit effective the first day of the first month of  
127 reemployment in that position.

128         2. Any person to whom the limitation in subparagraph 1.  
129 applies who violates such reemployment limitation and who is  
130 reemployed with any agency participating in the Florida  
131 Retirement System before completion of the 12-month limitation  
132 period shall give timely notice of this fact in writing to the  
133 employer and to the division and shall have his or her  
134 retirement benefits suspended for the balance of the 12-month  
135 limitation period. Any person employed in violation of this  
136 paragraph and any employing agency which knowingly employs or  
137 appoints such person without notifying the Division of  
138 Retirement to suspend retirement benefits shall be jointly and  
139 severally liable for reimbursement to the retirement trust fund  
140 of any benefits paid during the reemployment limitation period.

141 To avoid liability, such employing agency shall have a written  
142 statement from the retiree that he or she is not retired from a  
143 state-administered retirement system. Any retirement benefits  
144 received while reemployed during this reemployment limitation  
145 period shall be repaid to the retirement trust fund, and  
146 retirement benefits shall remain suspended until such repayment  
147 has been made. Benefits suspended beyond the reemployment  
148 limitation shall apply toward repayment of benefits received in  
149 violation of the reemployment limitation.

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

165 4. A community college board of trustees may reemploy a  
166 retired member as an adjunct instructor, that is, an instructor  
167 who is noncontractual and part-time, or as a participant in a  
168 phased retirement program within the Florida Community College

169 System, after he or she has been retired for 1 calendar month,  
170 in accordance with s. 121.021(39). Any retired member who is  
171 reemployed within 1 calendar month after retirement shall void  
172 his or her application for retirement benefits. Boards of  
173 trustees reemploying such instructors are subject to the  
174 retirement contribution required in subparagraph 7. A retired  
175 member may be reemployed as an adjunct instructor for no more  
176 than 780 hours during the first 12 months of retirement. Any  
177 retired member reemployed for more than 780 hours during the  
178 first 12 months of retirement shall give timely notice in  
179 writing to the employer and to the division of the date he or  
180 she will exceed the limitation. The division shall suspend his  
181 or her retirement benefits for the remainder of the first 12  
182 months of retirement. Any person employed in violation of this  
183 subparagraph and any employing agency which knowingly employs or  
184 appoints such person without notifying the Division of  
185 Retirement to suspend retirement benefits shall be jointly and  
186 severally liable for reimbursement to the retirement trust fund  
187 of any benefits paid during the reemployment limitation period.  
188 To avoid liability, such employing agency shall have a written  
189 statement from the retiree that he or she is not retired from a  
190 state-administered retirement system. Any retirement benefits  
191 received by a retired member while reemployed in excess of 780  
192 hours during the first 12 months of retirement shall be repaid  
193 to the Retirement System Trust Fund, and retirement benefits  
194 shall remain suspended until repayment is made. Benefits  
195 suspended beyond the end of the retired member's first 12 months  
196 of retirement shall apply toward repayment of benefits received

197 in violation of the 780-hour reemployment limitation.

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



225 | hours during the first 12 months of retirement shall be repaid  
226 | to the Retirement System Trust Fund, and retirement benefits  
227 | shall remain suspended until repayment is made. Benefits  
228 | suspended beyond the end of the retired member's first 12 months  
229 | of retirement shall apply toward repayment of benefits received  
230 | in violation of the 780-hour reemployment limitation.

231 |         6. The Board of Trustees of the Florida School for the  
232 | Deaf and the Blind may reemploy a retired member as a substitute  
233 | teacher, substitute residential instructor, or substitute nurse  
234 | on a noncontractual basis after he or she has been retired for 1  
235 | calendar month, in accordance with s. 121.021(39). Any retired  
236 | member who is reemployed within 1 calendar month after  
237 | retirement shall void his or her application for retirement  
238 | benefits. The Board of Trustees of the Florida School for the  
239 | Deaf and the Blind reemploying such teachers, residential  
240 | instructors, or nurses is subject to the retirement contribution  
241 | required by subparagraph 7. Reemployment of a retired member as  
242 | a substitute teacher, substitute residential instructor, or  
243 | substitute nurse is limited to 780 hours during the first 12  
244 | months of his or her retirement. Any retired member reemployed  
245 | for more than 780 hours during the first 12 months of retirement  
246 | shall give timely notice in writing to the employer and to the  
247 | division of the date he or she will exceed the limitation. The  
248 | division shall suspend his or her retirement benefits for the  
249 | remainder of the first 12 months of retirement. Any person  
250 | employed in violation of this subparagraph and any employing  
251 | agency which knowingly employs or appoints such person without  
252 | notifying the Division of Retirement to suspend retirement

253 benefits shall be jointly and severally liable for reimbursement  
254 to the retirement trust fund of any benefits paid during the  
255 reemployment limitation period. To avoid liability, such  
256 employing agency shall have a written statement from the retiree  
257 that he or she is not retired from a state-administered  
258 retirement system. Any retirement benefits received by a retired  
259 member while reemployed in excess of 780 hours during the first  
260 12 months of retirement shall be repaid to the Retirement System  
261 Trust Fund, and his or her retirement benefits shall remain  
262 suspended until payment is made. Benefits suspended beyond the  
263 end of the retired member's first 12 months of retirement shall  
264 apply toward repayment of benefits received in violation of the  
265 780-hour reemployment limitation.

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

280 8. Any person who has previously retired and who is

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

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

309 such person is eligible to retire under the provisions of this  
 310 subparagraph, as amended by chapter 84-11, Laws of Florida.

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

315 11. Except as provided in subparagraph 12., an employing  
 316 agency may reemploy a retired member as a firefighter or  
 317 paramedic after the retired member has been retired for 1  
 318 calendar month, in accordance with s. 121.021(39). Any retired  
 319 member who is reemployed within 1 calendar month after  
 320 retirement shall void his or her application for retirement  
 321 benefits. The employing agency reemploying such firefighter or  
 322 paramedic is subject to the retirement ~~retired~~ contribution  
 323 required in subparagraph 7. ~~8.~~ Reemployment of a retired  
 324 firefighter or paramedic is limited to no more than 780 hours  
 325 during the first 12 months of his or her retirement. Any retired  
 326 member reemployed for more than 780 hours during the first 12  
 327 months of retirement shall give timely notice in writing to the  
 328 employer and to the division of the date he or she will exceed  
 329 the limitation. The division shall suspend his or her retirement  
 330 benefits for the remainder of the first 12 months of retirement.  
 331 Any person employed in violation of this subparagraph and any  
 332 employing agency which knowingly employs or appoints such person  
 333 without notifying the Division of Retirement to suspend  
 334 retirement benefits shall be jointly and severally liable for  
 335 reimbursement to the Retirement System Trust Fund of any  
 336 benefits paid during the reemployment limitation period. To

337 | avoid liability, such employing agency shall have a written  
338 | statement from the retiree that he or she is not retired from a  
339 | state-administered retirement system. Any retirement benefits  
340 | received by a retired member while reemployed in excess of 780  
341 | hours during the first 12 months of retirement shall be repaid  
342 | to the Retirement System Trust Fund, and retirement benefits  
343 | shall remain suspended until repayment is made. Benefits  
344 | suspended beyond the end of the retired member's first 12 months  
345 | of retirement shall apply toward repayment of benefits received  
346 | in violation of the 780-hour reemployment limitation.

347 | 12.a. An employing agency may reemploy a retired member  
348 | who retired under the disability provisions of subparagraph  
349 | (4) (b)2. as a law enforcement officer, firefighter, correctional  
350 | officer, emergency medical technician, paramedic, or community-  
351 | based correctional probation officer after the retired member  
352 | has been retired for 1 calendar month, in accordance with s.  
353 | 121.021(39).

354 | b. Such retired member may not be reemployed with any  
355 | employer in the position he or she held at the time of the  
356 | disabling illness or injury and may not be reemployed in a  
357 | position that is included in the Special Risk Class.

358 | c. Any retired member who is reemployed within 1 calendar  
359 | month after retirement shall void his or her application for  
360 | retirement benefits. Any retired member who is reemployed in a  
361 | Special Risk Class position must terminate his or her disability  
362 | retirement benefit effective the first day of the first month of  
363 | reemployment in that position.

364 | d. The employing agency reemploying such a member is

365 subject to the retirement contribution required in subparagraph  
 366 7.

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

371 1. Such retirees may not be reemployed with an employer  
 372 participating in the Florida Retirement System as provided in  
 373 paragraph (b) until such person has been retired for 3 calendar  
 374 months, unless the participant has reached the normal retirement  
 375 requirements of the defined benefit plan as provided in s.  
 376 121.021(29).

377 2. Such retiree employed in violation of this subsection  
 378 and any employing agency that knowingly employs or appoints such  
 379 person shall be jointly and severally liable for reimbursement  
 380 of any benefits paid to the retirement trust fund from which the  
 381 benefits were paid, including the Retirement System Trust Fund  
 382 and the Public Employee Optional Retirement Program Trust Fund,  
 383 as appropriate. To avoid liability, such employing agency must  
 384 have a written statement from the retiree that he or she is not  
 385 retired from a state-administered retirement system.

386 Section 3. Effective July 1, 2007, in order to fund the  
 387 benefit improvements provided in s. 121.091, Florida Statutes,  
 388 as amended by this act, the contribution rate that applies to  
 389 the Special Risk Class of the defined benefit program of the  
 390 Florida Retirement System shall be increased by 0.31 percentage  
 391 points. This increase shall be in addition to all other changes  
 392 to such contribution rates which may be enacted into law to take

CS/HB 133

2007

393 effect on that date. The Division of Statutory Revision is  
394 directed to adjust accordingly the contribution rates set forth  
395 in s. 121.71, Florida Statutes.

396 Section 4. The Division of Retirement within the  
397 Department of Management Services shall request from the  
398 Internal Revenue Service, by October 1, 2007, a letter ruling  
399 regarding the provisions of section 2 of this act.

400 Section 5. This act shall take effect July 1, 2007, except  
401 that section 2 shall take effect upon the receipt of a favorable  
402 letter ruling from the Internal Revenue Service.