

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; deleting a provision authorizing an  
9 employing agency to reemploy a retired member as a  
10 firefighter or paramedic after a specified period;  
11 amending ss. 175.191 and 185.18, F.S.; providing minimum  
12 retirement benefits payable to certain Special Risk Class  
13 members who are injured in the line of duty and who are  
14 totally and permanently disabled due to such injury;  
15 providing for contribution rate increases to fund benefits  
16 provided in s. 121.091, F.S., as amended; directing the  
17 Division of Statutory Revision to adjust contribution  
18 rates set forth in s. 121.71, F.S.; providing an effective  
19 date.

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

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

25 Section 2. It is declared by the Legislature that  
26 firefighters, emergency medical technicians, paramedics, law  
27 enforcement officers, correctional officers, and correctional  
28 probation officers as defined in this act, sheriffs as defined

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29 in s. 30.072(5), Florida Statutes, deputy sheriffs as defined in  
30 s. 30.072(2), Florida Statutes, and highway patrol officers  
31 under chapter 321, Florida Statutes, perform state and municipal  
32 functions; that it is their duty to protect life and property at  
33 their own risk and peril; that it is their duty to continuously  
34 instruct school personnel, public officials, and private  
35 citizens about safety; and that their activities are vital to  
36 the public safety. Therefore, the Legislature declares that it  
37 is a proper and legitimate state purpose to provide a uniform  
38 retirement system for the benefit of firefighters, emergency  
39 medical technicians, paramedics, law enforcement officers,  
40 correctional officers, and correctional probation officers as  
41 defined in this act, sheriffs as defined in s. 30.072(5),  
42 Florida Statutes, deputy sheriffs as defined in s. 30.072(2),  
43 Florida Statutes, and highway patrol officers under chapter 321,  
44 Florida Statutes, and intends, in implementing the provisions of  
45 s. 14, Art. X of the State Constitution as they relate to  
46 municipal and special district pension trust fund systems and  
47 plans, that such retirement systems or plans be managed,  
48 administered, operated, and funded in such manner as to maximize  
49 the protection of pension trust funds. Pursuant to s. 18, Art.  
50 VII of the State Constitution, the Legislature hereby determines  
51 and declares that the provisions of this act fulfill an  
52 important state interest.

53 Section 3. Paragraph (b) of subsection (4) and paragraph  
54 (b) of subsection (9) of section 121.091, Florida Statutes, are  
55 amended to read:

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

69           (4) DISABILITY RETIREMENT BENEFIT.--

70           (b) Total and permanent disability.--A member shall be  
71 considered totally and permanently disabled if, in the opinion  
72 of the administrator, he or she is prevented, by reason of a  
73 medically determinable physical or mental impairment, from  
74 rendering useful and efficient service as an officer or  
75 employee. A Special Risk Class member who is an officer as  
76 defined in s. 943.10(1), (2), or (3); a firefighter as defined  
77 in s. 633.30(1); an emergency medical technician as defined in  
78 s. 401.23(11); or a paramedic as defined in s. 401.23(17) who is  
79 catastrophically injured as defined in s. 440.02(38), Florida  
80 Statutes 2002, in the line of duty as a result of a felonious  
81 act of another shall be considered totally and permanently  
82 disabled and unable to render useful and efficient service as an  
83 officer, unless the administrator can provide documented

84 competent medical evidence that the officer is able to render  
85 useful and efficient service as an officer. For purposes of this  
86 section, the term "officer" includes police officers,  
87 correctional officers, correctional probation officers, sheriffs  
88 as defined in s. 30.072(5), deputy sheriffs as defined in s.  
89 30.072(2), highway patrol officers under chapter 321,  
90 firefighters, emergency medical technicians, and paramedics.

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

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

104 2. Any person to whom the limitation in subparagraph 1.  
105 applies who violates such reemployment limitation and who is  
106 reemployed with any agency participating in the Florida  
107 Retirement System before completion of the 12-month limitation  
108 period shall give timely notice of this fact in writing to the  
109 employer and to the division and shall have his or her  
110 retirement benefits suspended for the balance of the 12-month  
111 limitation period. Any person employed in violation of this

112 paragraph and any employing agency which knowingly employs or  
113 appoints such person without notifying the Division of  
114 Retirement to suspend retirement benefits shall be jointly and  
115 severally liable for reimbursement to the retirement trust fund  
116 of any benefits paid during the reemployment limitation period.  
117 To avoid liability, such employing agency shall have a written  
118 statement from the retiree that he or she is not retired from a  
119 state-administered retirement system. Any retirement benefits  
120 received while reemployed during this reemployment limitation  
121 period shall be repaid to the retirement trust fund, and  
122 retirement benefits shall remain suspended until such repayment  
123 has been made. Benefits suspended beyond the reemployment  
124 limitation shall apply toward repayment of benefits received in  
125 violation of the reemployment limitation.

126 3. A district school board may reemploy a retired member  
127 as a substitute or hourly teacher, education paraprofessional,  
128 transportation assistant, bus driver, or food service worker on  
129 a noncontractual basis after he or she has been retired for 1  
130 calendar month, in accordance with s. 121.021(39). A district  
131 school board may reemploy a retired member as instructional  
132 personnel, as defined in s. 1012.01(2)(a), on an annual  
133 contractual basis after he or she has been retired for 1  
134 calendar month, in accordance with s. 121.021(39). Any other  
135 retired member who is reemployed within 1 calendar month after  
136 retirement shall void his or her application for retirement  
137 benefits. District school boards reemploying such teachers,  
138 education paraprofessionals, transportation assistants, bus

139 drivers, or food service workers are subject to the retirement  
140 contribution required by subparagraph 7.

141 4. A community college board of trustees may reemploy a  
142 retired member as an adjunct instructor, that is, an instructor  
143 who is noncontractual and part-time, or as a participant in a  
144 phased retirement program within the Florida Community College  
145 System, after he or she has been retired for 1 calendar month,  
146 in accordance with s. 121.021(39). Any retired member who is  
147 reemployed within 1 calendar month after retirement shall void  
148 his or her application for retirement benefits. Boards of  
149 trustees reemploying such instructors are subject to the  
150 retirement contribution required in subparagraph 7. A retired  
151 member may be reemployed as an adjunct instructor for no more  
152 than 780 hours during the first 12 months of retirement. Any  
153 retired member reemployed for more than 780 hours during the  
154 first 12 months of retirement shall give timely notice in  
155 writing to the employer and to the division of the date he or  
156 she will exceed the limitation. The division shall suspend his  
157 or her retirement benefits for the remainder of the first 12  
158 months of retirement. Any person employed in violation of this  
159 subparagraph and any employing agency which knowingly employs or  
160 appoints such person without notifying the Division of  
161 Retirement to suspend retirement benefits shall be jointly and  
162 severally liable for reimbursement to the retirement trust fund  
163 of any benefits paid during the reemployment limitation period.  
164 To avoid liability, such employing agency shall have a written  
165 statement from the retiree that he or she is not retired from a  
166 state-administered retirement system. Any retirement benefits

167 received by a retired member while reemployed in excess of 780  
168 hours during the first 12 months of retirement shall be repaid  
169 to the Retirement System Trust Fund, and retirement benefits  
170 shall remain suspended until repayment is made. Benefits  
171 suspended beyond the end of the retired member's first 12 months  
172 of retirement shall apply toward repayment of benefits received  
173 in violation of the 780-hour reemployment limitation.

174 5. The State University System may reemploy a retired  
175 member as an adjunct faculty member or as a participant in a  
176 phased retirement program within the State University System  
177 after the retired member has been retired for 1 calendar month,  
178 in accordance with s. 121.021(39). Any retired member who is  
179 reemployed within 1 calendar month after retirement shall void  
180 his or her application for retirement benefits. The State  
181 University System is subject to the retired contribution  
182 required in subparagraph 7., as appropriate. A retired member  
183 may be reemployed as an adjunct faculty member or a participant  
184 in a phased retirement program for no more than 780 hours during  
185 the first 12 months of his or her retirement. Any retired member  
186 reemployed for more than 780 hours during the first 12 months of  
187 retirement shall give timely notice in writing to the employer  
188 and to the division of the date he or she will exceed the  
189 limitation. The division shall suspend his or her retirement  
190 benefits for the remainder of the first 12 months of retirement.  
191 Any person employed in violation of this subparagraph and any  
192 employing agency which knowingly employs or appoints such person  
193 without notifying the Division of Retirement to suspend  
194 retirement benefits shall be jointly and severally liable for

195 reimbursement to the retirement trust fund of any benefits paid  
196 during the reemployment limitation period. To avoid liability,  
197 such employing agency shall have a written statement from the  
198 retiree that he or she is not retired from a state-administered  
199 retirement system. Any retirement benefits received by a retired  
200 member while reemployed in excess of 780 hours during the first  
201 12 months of retirement shall be repaid to the Retirement System  
202 Trust Fund, and retirement benefits shall remain suspended until  
203 repayment is made. Benefits suspended beyond the end of the  
204 retired member's first 12 months of retirement shall apply  
205 toward repayment of benefits received in violation of the 780-  
206 hour reemployment limitation.

207 6. The Board of Trustees of the Florida School for the  
208 Deaf and the Blind may reemploy a retired member as a substitute  
209 teacher, substitute residential instructor, or substitute nurse  
210 on a noncontractual basis after he or she has been retired for 1  
211 calendar month, in accordance with s. 121.021(39). Any retired  
212 member who is reemployed within 1 calendar month after  
213 retirement shall void his or her application for retirement  
214 benefits. The Board of Trustees of the Florida School for the  
215 Deaf and the Blind reemploying such teachers, residential  
216 instructors, or nurses is subject to the retirement contribution  
217 required by subparagraph 7. Reemployment of a retired member as  
218 a substitute teacher, substitute residential instructor, or  
219 substitute nurse is limited to 780 hours during the first 12  
220 months of his or her retirement. Any retired member reemployed  
221 for more than 780 hours during the first 12 months of retirement  
222 shall give timely notice in writing to the employer and to the



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223 division of the date he or she will exceed the limitation. The  
224 division shall suspend his or her retirement benefits for the  
225 remainder of the first 12 months of retirement. Any person  
226 employed in violation of this subparagraph and any employing  
227 agency which knowingly employs or appoints such person without  
228 notifying the Division of Retirement to suspend retirement  
229 benefits shall be jointly and severally liable for reimbursement  
230 to the retirement trust fund of any benefits paid during the  
231 reemployment limitation period. To avoid liability, such  
232 employing agency shall have a written statement from the retiree  
233 that he or she is not retired from a state-administered  
234 retirement system. Any retirement benefits received by a retired  
235 member while reemployed in excess of 780 hours during the first  
236 12 months of retirement shall be repaid to the Retirement System  
237 Trust Fund, and his or her retirement benefits shall remain  
238 suspended until payment is made. Benefits suspended beyond the  
239 end of the retired member's first 12 months of retirement shall  
240 apply toward repayment of benefits received in violation of the  
241 780-hour reemployment limitation.

242 7. The employment by an employer of any retiree or DROP  
243 participant of any state-administered retirement system shall  
244 have no effect on the average final compensation or years of  
245 creditable service of the retiree or DROP participant. Prior to  
246 July 1, 1991, upon employment of any person, other than an  
247 elected officer as provided in s. 121.053, who has been retired  
248 under any state-administered retirement program, the employer  
249 shall pay retirement contributions in an amount equal to the  
250 unfunded actuarial liability portion of the employer

251 contribution which would be required for regular members of the  
252 Florida Retirement System. Effective July 1, 1991, contributions  
253 shall be made as provided in s. 121.122 for retirees with  
254 renewed membership or subsection (13) with respect to DROP  
255 participants.

256 8. Any person who has previously retired and who is  
257 holding an elective public office or an appointment to an  
258 elective public office eligible for the Elected Officers' Class  
259 on or after July 1, 1990, shall be enrolled in the Florida  
260 Retirement System as provided in s. 121.053(1)(b) or, if holding  
261 an elective public office that does not qualify for the Elected  
262 Officers' Class on or after July 1, 1991, shall be enrolled in  
263 the Florida Retirement System as provided in s. 121.122, and  
264 shall continue to receive retirement benefits as well as  
265 compensation for the elected officer's service for as long as he  
266 or she remains in elective office. However, any retired member  
267 who served in an elective office prior to July 1, 1990,  
268 suspended his or her retirement benefit, and had his or her  
269 Florida Retirement System membership reinstated shall, upon  
270 retirement from such office, have his or her retirement benefit  
271 recalculated to include the additional service and compensation  
272 earned.

273 9. Any person who is holding an elective public office  
274 which is covered by the Florida Retirement System and who is  
275 concurrently employed in nonelected covered employment may elect  
276 to retire while continuing employment in the elective public  
277 office, provided that he or she shall be required to terminate  
278 his or her nonelected covered employment. Any person who

279 exercises this election shall receive his or her retirement  
280 benefits in addition to the compensation of the elective office  
281 without regard to the time limitations otherwise provided in  
282 this subsection. No person who seeks to exercise the provisions  
283 of this subparagraph, as the same existed prior to May 3, 1984,  
284 shall be deemed to be retired under those provisions, unless  
285 such person is eligible to retire under the provisions of this  
286 subparagraph, as amended by chapter 84-11, Laws of Florida.

287 10. The limitations of this paragraph apply to  
288 reemployment in any capacity with an "employer" as defined in s.  
289 121.021(10), irrespective of the category of funds from which  
290 the person is compensated.

291 ~~11. An employing agency may reemploy a retired member as a~~  
292 ~~firefighter or paramedic after the retired member has been~~  
293 ~~retired for 1 calendar month, in accordance with s. 121.021(39).~~  
294 ~~Any retired member who is reemployed within 1 calendar month~~  
295 ~~after retirement shall void his or her application for~~  
296 ~~retirement benefits. The employing agency reemploying such~~  
297 ~~firefighter or paramedic is subject to the retired contribution~~  
298 ~~required in subparagraph 8. Reemployment of a retired~~  
299 ~~firefighter or paramedic is limited to no more than 780 hours~~  
300 ~~during the first 12 months of his or her retirement. Any retired~~  
301 ~~member reemployed for more than 780 hours during the first 12~~  
302 ~~months of retirement shall give timely notice in writing to the~~  
303 ~~employer and to the division of the date he or she will exceed~~  
304 ~~the limitation. The division shall suspend his or her retirement~~  
305 ~~benefits for the remainder of the first 12 months of retirement.~~  
306 ~~Any person employed in violation of this subparagraph and any~~

307 ~~employing agency which knowingly employs or appoints such person~~  
308 ~~without notifying the Division of Retirement to suspend~~  
309 ~~retirement benefits shall be jointly and severally liable for~~  
310 ~~reimbursement to the Retirement System Trust Fund of any~~  
311 ~~benefits paid during the reemployment limitation period. To~~  
312 ~~avoid liability, such employing agency shall have a written~~  
313 ~~statement from the retiree that he or she is not retired from a~~  
314 ~~state-administered retirement system. Any retirement benefits~~  
315 ~~received by a retired member while reemployed in excess of 780~~  
316 ~~hours during the first 12 months of retirement shall be repaid~~  
317 ~~to the Retirement System Trust Fund, and retirement benefits~~  
318 ~~shall remain suspended until repayment is made. Benefits~~  
319 ~~suspended beyond the end of the retired member's first 12 months~~  
320 ~~of retirement shall apply toward repayment of benefits received~~  
321 ~~in violation of the 780-hour reemployment limitation.~~

322 Section 4. Subsection (5) of section 175.191, Florida  
323 Statutes, is amended to read:

324 175.191 Disability retirement.--For any municipality,  
325 special fire control district, chapter plan, local law  
326 municipality, local law special fire control district, or local  
327 law plan under this chapter:

328 (5) The benefit payable to a firefighter who retires from  
329 the service of a municipality or special fire control district  
330 due to total and permanent disability as a direct result of a  
331 disability is the monthly income payable for 10 years certain  
332 and life for which, if the firefighter's disability occurred in  
333 the line of duty, his or her monthly benefit shall be the  
334 accrued retirement benefit, but shall not be less than 42

335 percent of his or her average monthly salary at the time of  
 336 disability. If after 10 years of service the disability is other  
 337 than in the line of duty, the firefighter's monthly benefit  
 338 shall be the accrued normal retirement benefit, but shall not be  
 339 less than 25 percent of his or her average monthly salary at the  
 340 time of disability. Notwithstanding any provision to the  
 341 contrary, the monthly retirement benefit payable to a  
 342 firefighter, emergency medical technician, or paramedic who  
 343 retires from service due to total and permanent disability as a  
 344 result of a catastrophic injury as defined in s. 440.02(38),  
 345 Florida Statutes 2002, suffered in the line of duty where such  
 346 injury is a result of a felonious act of another shall be the  
 347 accrued retirement benefit but shall not be less than 80 percent  
 348 of his or her average monthly salary at the time of disability.

349 Section 5. Subsection (5) of section 185.18, Florida  
 350 Statutes, is amended to read:

351 185.18 Disability retirement.--For any municipality,  
 352 chapter plan, local law municipality, or local law plan under  
 353 this chapter:

354 (5) The benefit payable to a police officer who retires  
 355 from the service of the city with a total and permanent  
 356 disability as a result of a disability is the monthly income  
 357 payable for 10 years certain and life for which, if the police  
 358 officer's disability occurred in the line of duty, his or her  
 359 monthly benefit shall be the accrued retirement benefit, but  
 360 shall not be less than 42 percent of his or her average monthly  
 361 compensation as of the police officer's disability retirement  
 362 date. If after 10 years of service the disability is other than

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363 in the line of duty, the police officer's monthly benefit shall  
364 be the accrued normal retirement benefit, but shall not be less  
365 than 25 percent of his or her average monthly compensation as of  
366 the police officer's disability retirement date. Notwithstanding  
367 any provision to the contrary, the monthly retirement benefit  
368 payable to a police officer who retires from service due to  
369 total and permanent disability as a result of a catastrophic  
370 injury as defined in s. 440.02(38), Florida Statutes 2002,  
371 suffered in the line of duty where such injury is a result of a  
372 felonious act of another shall be the accrued retirement benefit  
373 but shall not be less than 80 percent of the officer's average  
374 monthly compensation as of the officer's disability retirement  
375 date.

376 Section 6. Effective July 1, 2007, in order to fund the  
377 benefits provided in s. 121.091, Florida Statutes, as amended by  
378 this act, the contribution rate that applies to the Special Risk  
379 Class of the defined benefit program of the Florida Retirement  
380 System shall be increased by 0.02 percentage points. This  
381 increase shall be in addition to all other changes to such  
382 contribution rates which may be enacted into law to take effect  
383 on that date. The Division of Statutory Revision is directed to  
384 adjust accordingly the contribution rates set forth in s.  
385 121.71, Florida Statutes.

386 Section 7. This act shall take effect July 1, 2007.