

By Senator Baker

20-1484-07

See HB 257

1 A bill to be entitled
2 An act relating to retirement; providing a
3 short title; providing legislative intent;
4 providing a statement of important state
5 interest; amending s. 121.091, F.S.; revising
6 provisions relating to benefits payable for
7 total and permanent disability for certain
8 Special Risk Class members of the Florida
9 Retirement System who are injured in the line
10 of duty; deleting a provision authorizing an
11 employing agency to reemploy a retired member
12 as a firefighter or paramedic after a specified
13 period; amending ss. 175.191 and 185.18, F.S.;
14 providing minimum retirement benefits payable
15 to certain Special Risk Class members who are
16 injured in the line of duty and who are totally
17 and permanently disabled due to such injury;
18 providing for contribution rate increases to
19 fund benefits provided in s. 121.091, F.S., as
20 amended; directing the Division of Statutory
21 Revision to adjust contribution rates set forth
22 in s. 121.71, F.S.; providing an effective
23 date.
24

25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. This act may be cited as the "Officer
28 Malcolm Thompson Act."

29 Section 2. It is declared by the Legislature that
30 firefighters, emergency medical technicians, paramedics, law
31 enforcement officers, correctional officers, and correctional

1 probation officers as defined in this act, sheriffs as defined
2 in s. 30.072(5), Florida Statutes, deputy sheriffs as defined
3 in s. 30.072(2), Florida Statutes, and highway patrol officers
4 under chapter 321, Florida Statutes, perform state and
5 municipal functions; that it is their duty to protect life and
6 property at their own risk and peril; that it is their duty to
7 continuously instruct school personnel, public officials, and
8 private citizens about safety; and that their activities are
9 vital to the public safety. Therefore, the Legislature
10 declares that it is a proper and legitimate state purpose to
11 provide a uniform retirement system for the benefit of
12 firefighters, emergency medical technicians, paramedics, law
13 enforcement officers, correctional officers, and correctional
14 probation officers as defined in this act, sheriffs as defined
15 in s. 30.072(5), Florida Statutes, deputy sheriffs as defined
16 in s. 30.072(2), Florida Statutes, and highway patrol officers
17 under chapter 321, Florida Statutes, and intends, in
18 implementing the provisions of s. 14, Art. X of the State
19 Constitution as they relate to municipal and special district
20 pension trust fund systems and plans, that such retirement
21 systems or plans be managed, administered, operated, and
22 funded in such manner as to maximize the protection of pension
23 trust funds. Pursuant to s. 18, Art. VII of the State
24 Constitution, the Legislature hereby determines and declares
25 that the provisions of this act fulfill an important state
26 interest.

27 Section 3. Paragraph (b) of subsection (4) and
28 paragraph (b) of subsection (9) of section 121.091, Florida
29 Statutes, are amended to read:

30 121.091 Benefits payable under the system.--Benefits
31 may not be paid under this section unless the member has

1 | terminated employment as provided in s. 121.021(39)(a) or
2 | begun participation in the Deferred Retirement Option Program
3 | as provided in subsection (13), and a proper application has
4 | been filed in the manner prescribed by the department. The
5 | department may cancel an application for retirement benefits
6 | when the member or beneficiary fails to timely provide the
7 | information and documents required by this chapter and the
8 | department's rules. The department shall adopt rules
9 | establishing procedures for application for retirement
10 | benefits and for the cancellation of such application when the
11 | required information or documents are not received.

12 | (4) DISABILITY RETIREMENT BENEFIT.--

13 | (b) Total and permanent disability.--A member shall be
14 | considered totally and permanently disabled if, in the opinion
15 | of the administrator, he or she is prevented, by reason of a
16 | medically determinable physical or mental impairment, from
17 | rendering useful and efficient service as an officer or
18 | employee. A Special Risk Class member who is an officer as
19 | defined in s. 943.10(1), (2), or (3); a firefighter as defined
20 | in s. 633.30(1); an emergency medical technician as defined in
21 | s. 401.23(11); or a paramedic as defined in s. 401.23(17) who
22 | is catastrophically injured as defined in s. 440.02(38),
23 | Florida Statutes 2002, in the line of duty as a result of a
24 | felonious act of another shall be considered totally and
25 | permanently disabled and unable to render useful and efficient
26 | service as an officer, unless the administrator can provide
27 | documented competent medical evidence that the officer is able
28 | to render useful and efficient service as an officer. For
29 | purposes of this section, the term "officer" includes police
30 | officers, correctional officers, correctional probation
31 | officers, sheriffs as defined in s. 30.072(5), deputy sheriffs

1 as defined in s. 30.072(2), highway patrol officers under
2 chapter 321, firefighters, emergency medical technicians, and
3 paramedics.

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

5 (b)1. Any person who is retired under this chapter,
6 except under the disability retirement provisions of
7 subsection (4), may be reemployed by any private or public
8 employer after retirement and receive retirement benefits and
9 compensation from his or her employer without any limitations,
10 except that a person may not receive both a salary from
11 reemployment with any agency participating in the Florida
12 Retirement System and retirement benefits under this chapter
13 for a period of 12 months immediately subsequent to the date
14 of retirement. However, a DROP participant shall continue
15 employment and receive a salary during the period of
16 participation in the Deferred Retirement Option Program, as
17 provided in subsection (13).

18 2. Any person to whom the limitation in subparagraph
19 1. applies who violates such reemployment limitation and who
20 is reemployed with any agency participating in the Florida
21 Retirement System before completion of the 12-month limitation
22 period shall give timely notice of this fact in writing to the
23 employer and to the division and shall have his or her
24 retirement benefits suspended for the balance of the 12-month
25 limitation period. Any person employed in violation of this
26 paragraph and any employing agency which knowingly employs or
27 appoints such person without notifying the Division of
28 Retirement to suspend retirement benefits shall be jointly and
29 severally liable for reimbursement to the retirement trust
30 fund of any benefits paid during the reemployment limitation
31 period. To avoid liability, such employing agency shall have a

1 | written statement from the retiree that he or she is not
2 | retired from a state-administered retirement system. Any
3 | retirement benefits received while reemployed during this
4 | reemployment limitation period shall be repaid to the
5 | retirement trust fund, and retirement benefits shall remain
6 | suspended until such repayment has been made. Benefits
7 | suspended beyond the reemployment limitation shall apply
8 | toward repayment of benefits received in violation of the
9 | reemployment limitation.

10 | 3. A district school board may reemploy a retired
11 | member as a substitute or hourly teacher, education
12 | paraprofessional, transportation assistant, bus driver, or
13 | food service worker on a noncontractual basis after he or she
14 | has been retired for 1 calendar month, in accordance with s.
15 | 121.021(39). A district school board may reemploy a retired
16 | member as instructional personnel, as defined in s.
17 | 1012.01(2)(a), on an annual contractual basis after he or she
18 | has been retired for 1 calendar month, in accordance with s.
19 | 121.021(39). Any other retired member who is reemployed within
20 | 1 calendar month after retirement shall void his or her
21 | application for retirement benefits. District school boards
22 | reemploying such teachers, education paraprofessionals,
23 | transportation assistants, bus drivers, or food service
24 | workers are subject to the retirement contribution required by
25 | subparagraph 7.

26 | 4. A community college board of trustees may reemploy
27 | a retired member as an adjunct instructor, that is, an
28 | instructor who is noncontractual and part-time, or as a
29 | participant in a phased retirement program within the Florida
30 | Community College System, after he or she has been retired for
31 | 1 calendar month, in accordance with s. 121.021(39). Any

1 | retired member who is reemployed within 1 calendar month after
2 | retirement shall void his or her application for retirement
3 | benefits. Boards of trustees reemploying such instructors are
4 | subject to the retirement contribution required in
5 | subparagraph 7. A retired member may be reemployed as an
6 | adjunct instructor for no more than 780 hours during the first
7 | 12 months of retirement. Any retired member reemployed for
8 | more than 780 hours during the first 12 months of retirement
9 | shall give timely notice in writing to the employer and to the
10 | division of the date he or she will exceed the limitation. The
11 | division shall suspend his or her retirement benefits for the
12 | remainder of the first 12 months of retirement. Any person
13 | employed in violation of this subparagraph and any employing
14 | agency which knowingly employs or appoints such person without
15 | notifying the Division of Retirement to suspend retirement
16 | benefits shall be jointly and severally liable for
17 | reimbursement to the retirement trust fund of any benefits
18 | paid during the reemployment limitation period. To avoid
19 | liability, such employing agency shall have a written
20 | statement from the retiree that he or she is not retired from
21 | a state-administered retirement system. Any retirement
22 | benefits received by a retired member while reemployed in
23 | excess of 780 hours during the first 12 months of retirement
24 | shall be repaid to the Retirement System Trust Fund, and
25 | retirement benefits shall remain suspended until repayment is
26 | made. Benefits suspended beyond the end of the retired
27 | member's first 12 months of retirement shall apply toward
28 | repayment of benefits received in violation of the 780-hour
29 | reemployment limitation.

30 | 5. The State University System may reemploy a retired
31 | member as an adjunct faculty member or as a participant in a

1 | phased retirement program within the State University System
2 | after the retired member has been retired for 1 calendar
3 | month, in accordance with s. 121.021(39). Any retired member
4 | who is reemployed within 1 calendar month after retirement
5 | shall void his or her application for retirement benefits. The
6 | State University System is subject to the retired contribution
7 | required in subparagraph 7., as appropriate. A retired member
8 | may be reemployed as an adjunct faculty member or a
9 | participant in a phased retirement program for no more than
10 | 780 hours during the first 12 months of his or her retirement.
11 | Any retired member reemployed for more than 780 hours during
12 | the first 12 months of retirement shall give timely notice in
13 | writing to the employer and to the division of the date he or
14 | she will exceed the limitation. The division shall suspend his
15 | or her retirement benefits for the remainder of the first 12
16 | months of retirement. Any person employed in violation of this
17 | subparagraph and any employing agency which knowingly employs
18 | or appoints such person without notifying the Division of
19 | Retirement to suspend retirement benefits shall be jointly and
20 | severally liable for reimbursement to the retirement trust
21 | fund of any benefits paid during the reemployment limitation
22 | period. To avoid liability, such employing agency shall have a
23 | written statement from the retiree that he or she is not
24 | retired from a state-administered retirement system. Any
25 | retirement benefits received by a retired member while
26 | reemployed in excess of 780 hours during the first 12 months
27 | of retirement shall be repaid to the Retirement System Trust
28 | Fund, and retirement benefits shall remain suspended until
29 | repayment is made. Benefits suspended beyond the end of the
30 | retired member's first 12 months of retirement shall apply
31 |

1 toward repayment of benefits received in violation of the
2 780-hour reemployment limitation.

3 6. The Board of Trustees of the Florida School for the
4 Deaf and the Blind may reemploy a retired member as a
5 substitute teacher, substitute residential instructor, or
6 substitute nurse on a noncontractual basis after he or she has
7 been retired for 1 calendar month, in accordance with s.
8 121.021(39). Any retired member who is reemployed within 1
9 calendar month after retirement shall void his or her
10 application for retirement benefits. The Board of Trustees of
11 the Florida School for the Deaf and the Blind reemploying such
12 teachers, residential instructors, or nurses is subject to the
13 retirement contribution required by subparagraph 7.
14 Reemployment of a retired member as a substitute teacher,
15 substitute residential instructor, or substitute nurse is
16 limited to 780 hours during the first 12 months of his or her
17 retirement. Any retired member reemployed for more than 780
18 hours during the first 12 months of retirement shall give
19 timely notice in writing to the employer and to the division
20 of the date he or she will exceed the limitation. The division
21 shall suspend his or her retirement benefits for the remainder
22 of the first 12 months of retirement. Any person employed in
23 violation of this subparagraph and any employing agency which
24 knowingly employs or appoints such person without notifying
25 the Division of Retirement to suspend retirement benefits
26 shall be jointly and severally liable for reimbursement to the
27 retirement trust fund of any benefits paid during the
28 reemployment limitation period. To avoid liability, such
29 employing agency shall have a written statement from the
30 retiree that he or she is not retired from a
31 state-administered retirement system. Any retirement benefits

1 received by a retired member while reemployed in excess of 780
2 hours during the first 12 months of retirement shall be repaid
3 to the Retirement System Trust Fund, and his or her retirement
4 benefits shall remain suspended until payment is made.

5 Benefits suspended beyond the end of the retired member's
6 first 12 months of retirement shall apply toward repayment of
7 benefits received in violation of the 780-hour reemployment
8 limitation.

9 7. The employment by an employer of any retiree or
10 DROP participant of any state-administered retirement system
11 shall have no effect on the average final compensation or
12 years of creditable service of the retiree or DROP
13 participant. Prior to July 1, 1991, upon employment of any
14 person, other than an elected officer as provided in s.
15 121.053, who has been retired under any state-administered
16 retirement program, the employer shall pay retirement
17 contributions in an amount equal to the unfunded actuarial
18 liability portion of the employer contribution which would be
19 required for regular members of the Florida Retirement System.
20 Effective July 1, 1991, contributions shall be made as
21 provided in s. 121.122 for retirees with renewed membership or
22 subsection (13) with respect to DROP participants.

23 8. Any person who has previously retired and who is
24 holding an elective public office or an appointment to an
25 elective public office eligible for the Elected Officers'
26 Class on or after July 1, 1990, shall be enrolled in the
27 Florida Retirement System as provided in s. 121.053(1)(b) or,
28 if holding an elective public office that does not qualify for
29 the Elected Officers' Class on or after July 1, 1991, shall be
30 enrolled in the Florida Retirement System as provided in s.
31 121.122, and shall continue to receive retirement benefits as

1 well as compensation for the elected officer's service for as
2 long as he or she remains in elective office. However, any
3 retired member who served in an elective office prior to July
4 1, 1990, suspended his or her retirement benefit, and had his
5 or her Florida Retirement System membership reinstated shall,
6 upon retirement from such office, have his or her retirement
7 benefit recalculated to include the additional service and
8 compensation earned.

9 9. Any person who is holding an elective public office
10 which is covered by the Florida Retirement System and who is
11 concurrently employed in nonelected covered employment may
12 elect to retire while continuing employment in the elective
13 public office, provided that he or she shall be required to
14 terminate his or her nonelected covered employment. Any person
15 who exercises this election shall receive his or her
16 retirement benefits in addition to the compensation of the
17 elective office without regard to the time limitations
18 otherwise provided in this subsection. No person who seeks to
19 exercise the provisions of this subparagraph, as the same
20 existed prior to May 3, 1984, shall be deemed to be retired
21 under those provisions, unless such person is eligible to
22 retire under the provisions of this subparagraph, as amended
23 by chapter 84-11, Laws of Florida.

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

28 ~~11. An employing agency may reemploy a retired member~~
29 ~~as a firefighter or paramedic after the retired member has~~
30 ~~been retired for 1 calendar month, in accordance with s.~~
31 ~~121.021(39). Any retired member who is reemployed within 1~~

1 ~~calendar month after retirement shall void his or her~~
2 ~~application for retirement benefits. The employing agency~~
3 ~~reemploying such firefighter or paramedic is subject to the~~
4 ~~retired contribution required in subparagraph 8. Reemployment~~
5 ~~of a retired firefighter or paramedic is limited to no more~~
6 ~~than 780 hours during the first 12 months of his or her~~
7 ~~retirement. Any retired member reemployed for more than 780~~
8 ~~hours during the first 12 months of retirement shall give~~
9 ~~timely notice in writing to the employer and to the division~~
10 ~~of the date he or she will exceed the limitation. The division~~
11 ~~shall suspend his or her retirement benefits for the remainder~~
12 ~~of the first 12 months of retirement. Any person employed in~~
13 ~~violation of this subparagraph and any employing agency which~~
14 ~~knowingly employs or appoints such person without notifying~~
15 ~~the Division of Retirement to suspend retirement benefits~~
16 ~~shall be jointly and severally liable for reimbursement to the~~
17 ~~Retirement System Trust Fund of any benefits paid during the~~
18 ~~reemployment limitation period. To avoid liability, such~~
19 ~~employing agency shall have a written statement from the~~
20 ~~retiree that he or she is not retired from a~~
21 ~~state administered retirement system. Any retirement benefits~~
22 ~~received by a retired member while reemployed in excess of 780~~
23 ~~hours during the first 12 months of retirement shall be repaid~~
24 ~~to the Retirement System Trust Fund, and retirement benefits~~
25 ~~shall remain suspended until repayment is made. Benefits~~
26 ~~suspended beyond the end of the retired member's first 12~~
27 ~~months of retirement shall apply toward repayment of benefits~~
28 ~~received in violation of the 780 hour reemployment limitation.~~

29 Section 4. Subsection (5) of section 175.191, Florida
30 Statutes, is amended to read:
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1 175.191 Disability retirement.--For any municipality,
2 special fire control district, chapter plan, local law
3 municipality, local law special fire control district, or
4 local law plan under this chapter:

5 (5) The benefit payable to a firefighter who retires
6 from the service of a municipality or special fire control
7 district due to total and permanent disability as a direct
8 result of a disability is the monthly income payable for 10
9 years certain and life for which, if the firefighter's
10 disability occurred in the line of duty, his or her monthly
11 benefit shall be the accrued retirement benefit, but shall not
12 be less than 42 percent of his or her average monthly salary
13 at the time of disability. If after 10 years of service the
14 disability is other than in the line of duty, the
15 firefighter's monthly benefit shall be the accrued normal
16 retirement benefit, but shall not be less than 25 percent of
17 his or her average monthly salary at the time of disability.
18 Notwithstanding any provision to the contrary, the monthly
19 retirement benefit payable to a firefighter, emergency medical
20 technician, or paramedic who retires from service due to total
21 and permanent disability as a result of a catastrophic injury
22 as defined in s. 440.02(38), Florida Statutes 2002, suffered
23 in the line of duty where such injury is a result of a
24 felonious act of another shall be the accrued retirement
25 benefit but shall not be less than 80 percent of his or her
26 average monthly salary at the time of disability.

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

29 185.18 Disability retirement.--For any municipality,
30 chapter plan, local law municipality, or local law plan under
31 this chapter:

1 (5) The benefit payable to a police officer who
2 retires from the service of the city with a total and
3 permanent disability as a result of a disability is the
4 monthly income payable for 10 years certain and life for
5 which, if the police officer's disability occurred in the line
6 of duty, his or her monthly benefit shall be the accrued
7 retirement benefit, but shall not be less than 42 percent of
8 his or her average monthly compensation as of the police
9 officer's disability retirement date. If after 10 years of
10 service the disability is other than in the line of duty, the
11 police officer's monthly benefit shall be the accrued normal
12 retirement benefit, but shall not be less than 25 percent of
13 his or her average monthly compensation as of the police
14 officer's disability retirement date. Notwithstanding any
15 provision to the contrary, the monthly retirement benefit
16 payable to a police officer who retires from service due to
17 total and permanent disability as a result of a catastrophic
18 injury as defined in s. 440.02(38), Florida Statutes 2002,
19 suffered in the line of duty where such injury is a result of
20 a felonious act of another shall be the accrued retirement
21 benefit but shall not be less than 80 percent of the officer's
22 average monthly compensation as of the officer's disability
23 retirement date.

24 Section 6. Effective July 1, 2007, in order to fund
25 the benefits provided in s. 121.091, Florida Statutes, as
26 amended by this act, the contribution rate that applies to the
27 Special Risk Class of the defined benefit program of the
28 Florida Retirement System shall be increased by 0.02
29 percentage points. This increase shall be in addition to all
30 other changes to such contribution rates which may be enacted
31 into law to take effect on that date. The Division of

1 Statutory Revision is directed to adjust accordingly the
2 contribution rates set forth in s. 121.71, Florida Statutes.

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