

By Senator Fasano

11-161-07

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

24  
25 Be It Enacted by the Legislature of the State of Florida:

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

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

24           121.091 Benefits payable under the system.--Benefits  
25 may not be paid under this section unless the member has  
26 terminated employment as provided in s. 121.021(39)(a) or  
27 begun participation in the Deferred Retirement Option Program  
28 as provided in subsection (13), and a proper application has  
29 been filed in the manner prescribed by the department. The  
30 department may cancel an application for retirement benefits  
31 when the member or beneficiary fails to timely provide the

1 information and documents required by this chapter and the  
2 department's rules. The department shall adopt rules  
3 establishing procedures for application for retirement  
4 benefits and for the cancellation of such application when the  
5 required information or documents are not received.

6 (4) DISABILITY RETIREMENT BENEFIT.--

7 (b) Total and permanent disability.--

8 1. Except as provided in subparagraph 2., a member  
9 shall be considered totally and permanently disabled if, in  
10 the opinion of the administrator, he or she is prevented, by  
11 reason of a medically determinable physical or mental  
12 impairment, from rendering useful and efficient service as an  
13 officer or employee.

14 2. A member of the Special Risk Class who is a law  
15 enforcement officer, firefighter, correctional officer,  
16 emergency medical technician, paramedic as described in s.  
17 121.021(15)(c), or community-based correctional probation  
18 officer as described in s. 121.021(15)(d)1., shall be  
19 considered totally and permanently disabled in the line of  
20 duty if he or she is prevented, by reason of a medically  
21 determinable physical or mental impairment caused by a  
22 job-related injury, from performing useful and efficient  
23 service in the position held, unless the administrator can  
24 provide competent medical evidence to the contrary.

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

26 (a)1. Except as provided in subparagraph 2., any  
27 person who is retired under this chapter, except under the  
28 disability retirement provisions of subsection (4), may be  
29 employed by an employer that does not participate in a  
30 state-administered retirement system and may receive  
31 compensation from that employment without limiting or

1 restricting in any way the retirement benefits payable to that  
2 person.

3       2. Any member of the Special Risk Class who retired  
4 under the disability retirement provisions of subparagraph  
5 (4)(b)2. may be reemployed by any employer not participating  
6 in a state-administered retirement system in any position  
7 other than the position in which he or she was employed at the  
8 time of the disabling illness or injury and may receive  
9 compensation from that employment without limiting or  
10 restricting in any way the disability benefits payable to that  
11 person under the Florida Retirement System.

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

25       b. Any member of the Special Risk Class who retired  
26 under the disability retirement provisions of subparagraph  
27 (4)(b)2. may be reemployed by any employer participating in a  
28 state-administered retirement system after having been retired  
29 for 1 calendar month, in accordance with s. 121.021(39). After  
30 1 calendar month of retirement, any such retired member may be  
31 reemployed in any position other than the one in which he or

1 she was employed at the time of disability retirement and may  
2 receive compensation from that employment without limiting or  
3 restricting in any way the retirement benefits payable to that  
4 person under this chapter. Any retired member who is  
5 reemployed within 1 calendar month after retirement shall void  
6 his or her application for retirement benefits.

7           2. Any person to whom the limitation in subparagraph  
8 1. applies who violates such reemployment limitation and who  
9 is reemployed with any agency participating in the Florida  
10 Retirement System before completion of the 12-month limitation  
11 period shall give timely notice of this fact in writing to the  
12 employer and to the division and shall have his or her  
13 retirement benefits suspended for the balance of the 12-month  
14 limitation period. Any person employed in violation of this  
15 paragraph and any employing agency which knowingly employs or  
16 appoints such person without notifying the Division of  
17 Retirement to suspend retirement benefits shall be jointly and  
18 severally liable for reimbursement to the retirement trust  
19 fund of any benefits paid during the reemployment limitation  
20 period. To avoid liability, such employing agency shall have  
21 a written statement from the retiree that he or she is not  
22 retired from a state-administered retirement system. Any  
23 retirement benefits received while reemployed during this  
24 reemployment limitation period shall be repaid to the  
25 retirement trust fund, and retirement benefits shall remain  
26 suspended until such repayment has been made. Benefits  
27 suspended beyond the reemployment limitation shall apply  
28 toward repayment of benefits received in violation of the  
29 reemployment limitation.

30           3. A district school board may reemploy a retired  
31 member as a substitute or hourly teacher, education

1 | paraprofessional, transportation assistant, bus driver, or  
2 | food service worker on a noncontractual basis after he or she  
3 | has been retired for 1 calendar month, in accordance with s.  
4 | 121.021(39). A district school board may reemploy a retired  
5 | member as instructional personnel, as defined in s.  
6 | 1012.01(2)(a), on an annual contractual basis after he or she  
7 | has been retired for 1 calendar month, in accordance with s.  
8 | 121.021(39). Any other retired member who is reemployed within  
9 | 1 calendar month after retirement shall void his or her  
10 | application for retirement benefits. District school boards  
11 | reemploying such teachers, education paraprofessionals,  
12 | transportation assistants, bus drivers, or food service  
13 | workers are subject to the retirement contribution required by  
14 | subparagraph 7.

15 |         4. A community college board of trustees may reemploy  
16 | a retired member as an adjunct instructor, that is, an  
17 | instructor who is noncontractual and part-time, or as a  
18 | participant in a phased retirement program within the Florida  
19 | Community College System, after he or she has been retired for  
20 | 1 calendar month, in accordance with s. 121.021(39). Any  
21 | retired member who is reemployed within 1 calendar month after  
22 | retirement shall void his or her application for retirement  
23 | benefits. Boards of trustees reemploying such instructors are  
24 | subject to the retirement contribution required in  
25 | subparagraph 7. A retired member may be reemployed as an  
26 | adjunct instructor for no more than 780 hours during the first  
27 | 12 months of retirement. Any retired member reemployed for  
28 | more than 780 hours during the first 12 months of retirement  
29 | shall give timely notice in writing to the employer and to the  
30 | division of the date he or she will exceed the limitation.  
31 | The division shall suspend his or her retirement benefits for

1 | the remainder of the first 12 months of retirement. Any  
2 | person employed in violation of this subparagraph and any  
3 | employing agency which knowingly employs or appoints such  
4 | person without notifying the Division of Retirement to suspend  
5 | retirement benefits shall be jointly and severally liable for  
6 | reimbursement to the retirement trust fund of any benefits  
7 | paid during the reemployment limitation period. To avoid  
8 | liability, such employing agency shall have a written  
9 | statement from the retiree that he or she is not retired from  
10 | a state-administered retirement system. Any retirement  
11 | benefits received by a retired member while reemployed in  
12 | excess of 780 hours during the first 12 months of retirement  
13 | shall be repaid to the Retirement System Trust Fund, and  
14 | retirement benefits shall remain suspended until repayment is  
15 | made. Benefits suspended beyond the end of the retired  
16 | member's first 12 months of retirement shall apply toward  
17 | repayment of benefits received in violation of the 780-hour  
18 | reemployment limitation.

19 |         5. The State University System may reemploy a retired  
20 | member as an adjunct faculty member or as a participant in a  
21 | phased retirement program within the State University System  
22 | after the retired member has been retired for 1 calendar  
23 | month, in accordance with s. 121.021(39). Any retired member  
24 | who is reemployed within 1 calendar month after retirement  
25 | shall void his or her application for retirement benefits.  
26 | The State University System is subject to the retirement  
27 | ~~retired~~ contribution required in subparagraph 7., as  
28 | appropriate. A retired member may be reemployed as an adjunct  
29 | faculty member or a participant in a phased retirement program  
30 | for no more than 780 hours during the first 12 months of his  
31 | or her retirement. Any retired member reemployed for more

1 | than 780 hours during the first 12 months of retirement shall  
2 | give timely notice in writing to the employer and to the  
3 | division of the date he or she will exceed the limitation.  
4 | The division shall suspend his or her retirement benefits for  
5 | the remainder of the first 12 months of retirement. Any person  
6 | employed in violation of this subparagraph and any employing  
7 | agency which knowingly employs or appoints such person without  
8 | notifying the Division of Retirement to suspend retirement  
9 | benefits shall be jointly and severally liable for  
10 | reimbursement to the retirement trust fund of any benefits  
11 | paid during the reemployment limitation period. To avoid  
12 | liability, such employing agency shall have a written  
13 | statement from the retiree that he or she is not retired from  
14 | a state-administered retirement system. Any retirement  
15 | benefits received by a retired member while reemployed in  
16 | excess of 780 hours during the first 12 months of retirement  
17 | shall be repaid to the Retirement System Trust Fund, and  
18 | retirement benefits shall remain suspended until repayment is  
19 | made. Benefits suspended beyond the end of the retired  
20 | member's first 12 months of retirement shall apply toward  
21 | repayment of benefits received in violation of the 780-hour  
22 | reemployment limitation.

23 |         6. The Board of Trustees of the Florida School for the  
24 | Deaf and the Blind may reemploy a retired member as a  
25 | substitute teacher, substitute residential instructor, or  
26 | substitute nurse on a noncontractual basis after he or she has  
27 | been retired for 1 calendar month, in accordance with s.  
28 | 121.021(39). Any retired member who is reemployed within 1  
29 | calendar month after retirement shall void his or her  
30 | application for retirement benefits. The Board of Trustees of  
31 | the Florida School for the Deaf and the Blind reemploying such



1 teachers, residential instructors, or nurses is subject to the  
2 retirement contribution required by subparagraph 7.  
3 Reemployment of a retired member as a substitute teacher,  
4 substitute residential instructor, or substitute nurse is  
5 limited to 780 hours during the first 12 months of his or her  
6 retirement. Any retired member reemployed for more than 780  
7 hours during the first 12 months of retirement shall give  
8 timely notice in writing to the employer and to the division  
9 of the date he or she will exceed the limitation. The division  
10 shall suspend his or her retirement benefits for the remainder  
11 of the first 12 months of retirement. Any person employed in  
12 violation of this subparagraph and any employing agency which  
13 knowingly employs or appoints such person without notifying  
14 the Division of Retirement to suspend retirement benefits  
15 shall be jointly and severally liable for reimbursement to the  
16 retirement trust fund of any benefits paid during the  
17 reemployment limitation period. To avoid liability, such  
18 employing agency shall have a written statement from the  
19 retiree that he or she is not retired from a  
20 state-administered retirement system. Any retirement benefits  
21 received by a retired member while reemployed in excess of 780  
22 hours during the first 12 months of retirement shall be repaid  
23 to the Retirement System Trust Fund, and his or her retirement  
24 benefits shall remain suspended until payment is made.  
25 Benefits suspended beyond the end of the retired member's  
26 first 12 months of retirement shall apply toward repayment of  
27 benefits received in violation of the 780-hour reemployment  
28 limitation.

29           7. The employment by an employer of any retiree or  
30 DROP participant of any state-administered retirement system  
31 shall have no effect on the average final compensation or

1 | years of creditable service of the retiree or DROP  
2 | participant. Prior to July 1, 1991, upon employment of any  
3 | person, other than an elected officer as provided in s.  
4 | 121.053, who has been retired under any state-administered  
5 | retirement program, the employer shall pay retirement  
6 | contributions in an amount equal to the unfunded actuarial  
7 | liability portion of the employer contribution which would be  
8 | required for regular members of the Florida Retirement System.  
9 | Effective July 1, 1991, contributions shall be made as  
10 | provided in s. 121.122 for retirees with renewed membership or  
11 | subsection (13) with respect to DROP participants.

12 |         8. Any person who has previously retired and who is  
13 | holding an elective public office or an appointment to an  
14 | elective public office eligible for the Elected Officers'  
15 | Class on or after July 1, 1990, shall be enrolled in the  
16 | Florida Retirement System as provided in s. 121.053(1)(b) or,  
17 | if holding an elective public office that does not qualify for  
18 | the Elected Officers' Class on or after July 1, 1991, shall be  
19 | enrolled in the Florida Retirement System as provided in s.  
20 | 121.122, and shall continue to receive retirement benefits as  
21 | well as compensation for the elected officer's service for as  
22 | long as he or she remains in elective office. However, any  
23 | retired member who served in an elective office prior to July  
24 | 1, 1990, suspended his or her retirement benefit, and had his  
25 | or her Florida Retirement System membership reinstated shall,  
26 | upon retirement from such office, have his or her retirement  
27 | benefit recalculated to include the additional service and  
28 | compensation earned.

29 |         9. Any person who is holding an elective public office  
30 | which is covered by the Florida Retirement System and who is  
31 | concurrently employed in nonelected covered employment may

1 elect to retire while continuing employment in the elective  
2 public office, provided that he or she shall be required to  
3 terminate his or her nonelected covered employment. Any  
4 person who exercises this election shall receive his or her  
5 retirement benefits in addition to the compensation of the  
6 elective office without regard to the time limitations  
7 otherwise provided in this subsection. No person who seeks to  
8 exercise the provisions of this subparagraph, as the same  
9 existed prior to May 3, 1984, shall be deemed to be retired  
10 under those provisions, unless such person is eligible to  
11 retire under the provisions of this subparagraph, as amended  
12 by chapter 84-11, Laws of Florida.

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

17           11. Except as provided in subsection 12., an employing  
18 agency may reemploy a retired member as a firefighter or  
19 paramedic after the retired member has been retired for 1  
20 calendar month, in accordance with s. 121.021(39). Any retired  
21 member who is reemployed within 1 calendar month after  
22 retirement shall void his or her application for retirement  
23 benefits. The employing agency reemploying such firefighter or  
24 paramedic is subject to the retirement ~~retired~~ contribution  
25 required in subparagraph 7. ~~8.~~ Reemployment of a retired  
26 firefighter or paramedic is limited to no more than 780 hours  
27 during the first 12 months of his or her retirement. Any  
28 retired member reemployed for more than 780 hours during the  
29 first 12 months of retirement shall give timely notice in  
30 writing to the employer and to the division of the date he or  
31 she will exceed the limitation. The division shall suspend his

1 or her retirement benefits for the remainder of the first 12  
2 months of retirement. Any person employed in violation of this  
3 subparagraph and any employing agency which knowingly employs  
4 or appoints such person without notifying the Division of  
5 Retirement to suspend retirement benefits shall be jointly and  
6 severally liable for reimbursement to the Retirement System  
7 Trust Fund of any benefits paid during the reemployment  
8 limitation period. To avoid liability, such employing agency  
9 shall have a written statement from the retiree that he or she  
10 is not retired from a state-administered retirement system.  
11 Any retirement benefits received by a retired member while  
12 reemployed in excess of 780 hours during the first 12 months  
13 of retirement shall be repaid to the Retirement System Trust  
14 Fund, and retirement benefits shall remain suspended until  
15 repayment is made. Benefits suspended beyond the end of the  
16 retired member's first 12 months of retirement shall apply  
17 toward repayment of benefits received in violation of the  
18 780-hour reemployment limitation.

19 12. An employing agency may reemploy a retired member  
20 who retired under the disability provisions of subparagraph  
21 (4)(b)2., as a law enforcement officer, firefighter,  
22 correctional officer, emergency medical technician, paramedic,  
23 or a community-based correctional probation officer, after the  
24 retired member has been retired for 1 calendar month, in  
25 accordance with s. 121.021(39). Such retired member may not be  
26 reemployed with any employer in the position he or she held at  
27 the time of the disabling illness or injury. Any retired  
28 member who is reemployed within 1 calendar month after  
29 retirement shall void his or her application for retirement  
30 benefits. The employing agency reemploying such a member is  
31

1 subject to the retirement contribution required in  
2 subparagraph 7.

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

7 1. Such retirees may not be reemployed with an  
8 employer participating in the Florida Retirement System as  
9 provided in paragraph (b) until such person has been retired  
10 for 3 calendar months, unless the participant has reached the  
11 normal retirement requirements of the defined benefit plan as  
12 provided in s. 121.021(29).

13 2. Such retiree employed in violation of this  
14 subsection and any employing agency that knowingly employs or  
15 appoints such person shall be jointly and severally liable for  
16 reimbursement of any benefits paid to the retirement trust  
17 fund from which the benefits were paid, including the  
18 Retirement System Trust Fund and the Public Employee Optional  
19 Retirement Program Trust Fund, as appropriate. To avoid  
20 liability, such employing agency must have a written statement  
21 from the retiree that he or she is not retired from a  
22 state-administered retirement system.

23 Section 4. Effective July 1, 2007, in order to fund  
24 the benefit improvements provided in s. 121.091, Florida  
25 Statutes, as amended by this act, the contribution rate that  
26 applies to the Special Risk Class of the defined benefit  
27 program of the Florida Retirement System shall be increased by  
28 0.31 percentage points. This increase shall be in addition to  
29 all other changes to such contribution rates which may be  
30 enacted into law to take effect on that date. The Division of  
31

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

3 Section 5. This act shall take effect July 1, 2007.  
4

5 \*\*\*\*\*

6 SENATE SUMMARY

7 Revises the benefits payable for total and permanent  
8 disability for certain Special Risk Class members of the  
9 Florida Retirement System who are injured in the line of  
10 duty. Authorizes reemployment of certain persons who  
11 retired with in-line-of-duty disability benefits.  
12 Authorizes reemployment of a person who retired with  
13 in-line-of-duty disability benefits by an employer  
14 participating in a state-administered retirement system  
15 after 1 calendar month. Provides for increases in the  
16 contribution rate to fund benefits provided in s.  
17 121.091, F.S. (See bill for details.)  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31