

By Senator Oelrich

14-02849-08

20081024__

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 in
29 s. 30.072(5), Florida Statutes, deputy sheriffs as defined in s.

14-02849-08

20081024__

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

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

55 | 121.091 Benefits payable under the system.--Benefits may
56 | not be paid under this section unless the member has terminated
57 | employment as provided in s. 121.021(39)(a) or begun
58 | participation in the Deferred Retirement Option Program as

14-02849-08

20081024__

59 | provided in subsection (13), and a proper application has been
60 | filed in the manner prescribed by the department. The department
61 | may cancel an application for retirement benefits when the member
62 | or beneficiary fails to timely provide the information and
63 | documents required by this chapter and the department's rules.
64 | The department shall adopt rules establishing procedures for
65 | application for retirement benefits and for the cancellation of
66 | such application when the required information or documents are
67 | not received.

68 | (4) DISABILITY RETIREMENT BENEFIT.--

69 | (b) Total and permanent disability.--A member shall be
70 | considered totally and permanently disabled if, in the opinion of
71 | the administrator, he or she is prevented, by reason of a
72 | medically determinable physical or mental impairment, from
73 | rendering useful and efficient service as an officer or employee.
74 | A Special Risk Class member who is an officer as defined in s.
75 | 943.10(1), (2), or (3); a firefighter as defined in s. 633.30(1);
76 | an emergency medical technician as defined in s. 401.23(11); or a
77 | paramedic as defined in s. 401.23(17) who is catastrophically
78 | injured as defined in s. 440.02(38), Florida Statutes 2002, in
79 | the line of duty as a result of a felonious act of another shall
80 | be considered totally and permanently disabled and unable to
81 | render useful and efficient service as an officer, unless the
82 | administrator can provide documented competent medical evidence
83 | that the officer is able to render useful and efficient service
84 | as an officer. For purposes of this section, the term "officer"
85 | includes police officers, correctional officers, correctional
86 | probation officers, sheriffs as defined in s. 30.072(5), deputy
87 | sheriffs as defined in s. 30.072(2), highway patrol officers

14-02849-08

20081024__

88 under chapter 321, firefighters, emergency medical technicians,
89 and paramedics.

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

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

103 2. Any person to whom the limitation in subparagraph 1.
104 applies who violates such reemployment limitation and who is
105 reemployed with any agency participating in the Florida
106 Retirement System before completion of the 12-month limitation
107 period shall give timely notice of this fact in writing to the
108 employer and to the division and shall have his or her retirement
109 benefits suspended for the balance of the 12-month limitation
110 period. Any person employed in violation of this paragraph and
111 any employing agency which knowingly employs or appoints such
112 person without notifying the Division of Retirement to suspend
113 retirement benefits shall be jointly and severally liable for
114 reimbursement to the retirement trust fund of any benefits paid
115 during the reemployment limitation period. To avoid liability,
116 such employing agency shall have a written statement from the

14-02849-08

20081024__

117 retiree that he or she is not retired from a state-administered
118 retirement system. Any retirement benefits received while
119 reemployed during this reemployment limitation period shall be
120 repaid to the retirement trust fund, and retirement benefits
121 shall remain suspended until such repayment has been made.
122 Benefits suspended beyond the reemployment limitation shall apply
123 toward repayment of benefits received in violation of the
124 reemployment limitation.

125 3. A district school board may reemploy a retired member as
126 a substitute or hourly teacher, education paraprofessional,
127 transportation assistant, bus driver, or food service worker on a
128 noncontractual basis after he or she has been retired for 1
129 calendar month, in accordance with s. 121.021(39). A district
130 school board may reemploy a retired member as instructional
131 personnel, as defined in s. 1012.01(2)(a), on an annual
132 contractual basis after he or she has been retired for 1 calendar
133 month, in accordance with s. 121.021(39). Any other retired
134 member who is reemployed within 1 calendar month after retirement
135 shall void his or her application for retirement benefits.
136 District school boards reemploying such teachers, education
137 paraprofessionals, transportation assistants, bus drivers, or
138 food service workers are subject to the retirement contribution
139 required by subparagraph 7.

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

14-02849-08

20081024__

146 reemployed within 1 calendar month after retirement shall void
147 his or her application for retirement benefits. Boards of
148 trustees reemploying such instructors are subject to the
149 retirement contribution required in subparagraph 7. A retired
150 member may be reemployed as an adjunct instructor for no more
151 than 780 hours during the first 12 months of retirement. Any
152 retired member reemployed for more than 780 hours during the
153 first 12 months of retirement shall give timely notice in writing
154 to the employer and to the division of the date he or she will
155 exceed the limitation. The division shall suspend his or her
156 retirement benefits for the remainder of the first 12 months of
157 retirement. Any person employed in violation of this subparagraph
158 and any employing agency which knowingly employs or appoints such
159 person without notifying the Division of Retirement to suspend
160 retirement benefits shall be jointly and severally liable for
161 reimbursement to the retirement trust fund of any benefits paid
162 during the reemployment limitation period. To avoid liability,
163 such employing agency shall have a written statement from the
164 retiree that he or she is not retired from a state-administered
165 retirement system. Any retirement benefits received by a retired
166 member while reemployed in excess of 780 hours during the first
167 12 months of retirement shall be repaid to the Retirement System
168 Trust Fund, and retirement benefits shall remain suspended until
169 repayment is made. Benefits suspended beyond the end of the
170 retired member's first 12 months of retirement shall apply toward
171 repayment of benefits received in violation of the 780-hour
172 reemployment limitation.

173 5. The State University System may reemploy a retired
174 member as an adjunct faculty member or as a participant in a

14-02849-08

20081024__

175 | phased retirement program within the State University System
176 | after the retired member has been retired for 1 calendar month,
177 | in accordance with s. 121.021(39). Any retired member who is
178 | reemployed within 1 calendar month after retirement shall void
179 | his or her application for retirement benefits. The State
180 | University System is subject to the retired contribution required
181 | in subparagraph 7., as appropriate. A retired member may be
182 | reemployed as an adjunct faculty member or a participant in a
183 | phased retirement program for no more than 780 hours during the
184 | first 12 months of his or her retirement. Any retired member
185 | reemployed for more than 780 hours during the first 12 months of
186 | retirement shall give timely notice in writing to the employer
187 | and to the division of the date he or she will exceed the
188 | limitation. The division shall suspend his or her retirement
189 | benefits for the remainder of the first 12 months of retirement.
190 | Any person employed in violation of this subparagraph and any
191 | employing agency which knowingly employs or appoints such person
192 | without notifying the Division of Retirement to suspend
193 | retirement benefits shall be jointly and severally liable for
194 | reimbursement to the retirement trust fund of any benefits paid
195 | during the reemployment limitation period. To avoid liability,
196 | such employing agency shall have a written statement from the
197 | retiree that he or she is not retired from a state-administered
198 | retirement system. Any retirement benefits received by a retired
199 | member while reemployed in excess of 780 hours during the first
200 | 12 months of retirement shall be repaid to the Retirement System
201 | Trust Fund, and retirement benefits shall remain suspended until
202 | repayment is made. Benefits suspended beyond the end of the
203 | retired member's first 12 months of retirement shall apply toward

14-02849-08

20081024__

204 repayment of benefits received in violation of the 780-hour
205 reemployment limitation.

206 6. The Board of Trustees of the Florida School for the Deaf
207 and the Blind may reemploy a retired member as a substitute
208 teacher, substitute residential instructor, or substitute nurse
209 on a noncontractual basis after he or she has been retired for 1
210 calendar month, in accordance with s. 121.021(39). Any retired
211 member who is reemployed within 1 calendar month after retirement
212 shall void his or her application for retirement benefits. The
213 Board of Trustees of the Florida School for the Deaf and the
214 Blind reemploying such teachers, residential instructors, or
215 nurses is subject to the retirement contribution required by
216 subparagraph 7. Reemployment of a retired member as a substitute
217 teacher, substitute residential instructor, or substitute nurse
218 is limited to 780 hours during the first 12 months of his or her
219 retirement. Any retired member reemployed for more than 780 hours
220 during the first 12 months of retirement shall give timely notice
221 in writing to the employer and to the division of the date he or
222 she will exceed the limitation. The division shall suspend his or
223 her retirement benefits for the remainder of the first 12 months
224 of retirement. Any person employed in violation of this
225 subparagraph and any employing agency which knowingly employs or
226 appoints such person without notifying the Division of Retirement
227 to suspend retirement benefits shall be jointly and severally
228 liable for reimbursement to the retirement trust fund of any
229 benefits paid during the reemployment limitation period. To avoid
230 liability, such employing agency shall have a written statement
231 from the retiree that he or she is not retired from a state-
232 administered retirement system. Any retirement benefits received

14-02849-08

20081024__

233 | by a retired member while reemployed in excess of 780 hours
234 | during the first 12 months of retirement shall be repaid to the
235 | Retirement System Trust Fund, and his or her retirement benefits
236 | shall remain suspended until payment is made. Benefits suspended
237 | beyond the end of the retired member's first 12 months of
238 | retirement shall apply toward repayment of benefits received in
239 | violation of the 780-hour reemployment limitation.

240 | 7. The employment by an employer of any retiree or DROP
241 | participant of any state-administered retirement system shall
242 | have no effect on the average final compensation or years of
243 | creditable service of the retiree or DROP participant. Prior to
244 | July 1, 1991, upon employment of any person, other than an
245 | elected officer as provided in s. 121.053, who has been retired
246 | under any state-administered retirement program, the employer
247 | shall pay retirement contributions in an amount equal to the
248 | unfunded actuarial liability portion of the employer contribution
249 | which would be required for regular members of the Florida
250 | Retirement System. Effective July 1, 1991, contributions shall be
251 | made as provided in s. 121.122 for retirees with renewed
252 | membership or subsection (13) with respect to DROP participants.

253 | 8. Any person who has previously retired and who is holding
254 | an elective public office or an appointment to an elective public
255 | office eligible for the Elected Officers' Class on or after July
256 | 1, 1990, shall be enrolled in the Florida Retirement System as
257 | provided in s. 121.053(1)(b) or, if holding an elective public
258 | office that does not qualify for the Elected Officers' Class on
259 | or after July 1, 1991, shall be enrolled in the Florida
260 | Retirement System as provided in s. 121.122, and shall continue
261 | to receive retirement benefits as well as compensation for the

14-02849-08

20081024__

262 | elected officer's service for as long as he or she remains in
263 | elective office. However, any retired member who served in an
264 | elective office prior to July 1, 1990, suspended his or her
265 | retirement benefit, and had his or her Florida Retirement System
266 | membership reinstated shall, upon retirement from such office,
267 | have his or her retirement benefit recalculated to include the
268 | additional service and compensation earned.

269 | 9. Any person who is holding an elective public office
270 | which is covered by the Florida Retirement System and who is
271 | concurrently employed in nonelected covered employment may elect
272 | to retire while continuing employment in the elective public
273 | office, provided that he or she shall be required to terminate
274 | his or her nonelected covered employment. Any person who
275 | exercises this election shall receive his or her retirement
276 | benefits in addition to the compensation of the elective office
277 | without regard to the time limitations otherwise provided in this
278 | subsection. No person who seeks to exercise the provisions of
279 | this subparagraph, as the same existed prior to May 3, 1984,
280 | shall be deemed to be retired under those provisions, unless such
281 | person is eligible to retire under the provisions of this
282 | subparagraph, as amended by chapter 84-11, Laws of Florida.

283 | 10. The limitations of this paragraph apply to reemployment
284 | in any capacity with an "employer" as defined in s. 121.021(10),
285 | irrespective of the category of funds from which the person is
286 | compensated.

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

14-02849-08

20081024__

291 ~~after retirement shall void his or her application for retirement~~
292 ~~benefits. The employing agency reemploying such firefighter or~~
293 ~~paramedic is subject to the retired contribution required in~~
294 ~~subparagraph 8. Reemployment of a retired firefighter or~~
295 ~~paramedic is limited to no more than 780 hours during the first~~
296 ~~12 months of his or her retirement. Any retired member reemployed~~
297 ~~for more than 780 hours during the first 12 months of retirement~~
298 ~~shall give timely notice in writing to the employer and to the~~
299 ~~division of the date he or she will exceed the limitation. The~~
300 ~~division shall suspend his or her retirement benefits for the~~
301 ~~remainder of the first 12 months of retirement. Any person~~
302 ~~employed in violation of this subparagraph and any employing~~
303 ~~agency which knowingly employs or appoints such person without~~
304 ~~notifying the Division of Retirement to suspend retirement~~
305 ~~benefits shall be jointly and severally liable for reimbursement~~
306 ~~to the Retirement System Trust Fund of any benefits paid during~~
307 ~~the reemployment limitation period. To avoid liability, such~~
308 ~~employing agency shall have a written statement from the retiree~~
309 ~~that he or she is not retired from a state-administered~~
310 ~~retirement system. Any retirement benefits received by a retired~~
311 ~~member while reemployed in excess of 780 hours during the first~~
312 ~~12 months of retirement shall be repaid to the Retirement System~~
313 ~~Trust Fund, and retirement benefits shall remain suspended until~~
314 ~~repayment is made. Benefits suspended beyond the end of the~~
315 ~~retired member's first 12 months of retirement shall apply toward~~
316 ~~repayment of benefits received in violation of the 780-hour~~
317 ~~reemployment limitation.~~

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

14-02849-08

20081024__

320 175.191 Disability retirement.--For any municipality,
321 special fire control district, chapter plan, local law
322 municipality, local law special fire control district, or local
323 law plan under this chapter:

324 (5) The benefit payable to a firefighter who retires from
325 the service of a municipality or special fire control district
326 due to total and permanent disability as a direct result of a
327 disability is the monthly income payable for 10 years certain and
328 life for which, if the firefighter's disability occurred in the
329 line of duty, his or her monthly benefit shall be the accrued
330 retirement benefit, but shall not be less than 42 percent of his
331 or her average monthly salary at the time of disability. If after
332 10 years of service the disability is other than in the line of
333 duty, the firefighter's monthly benefit shall be the accrued
334 normal retirement benefit, but shall not be less than 25 percent
335 of his or her average monthly salary at the time of disability.
336 Notwithstanding any provision to the contrary, the monthly
337 retirement benefit payable to a firefighter, emergency medical
338 technician, or paramedic who retires from service due to total
339 and permanent disability as a result of a catastrophic injury as
340 defined in s. 440.02(38), Florida Statutes 2002, suffered in the
341 line of duty where such injury is a result of a felonious act of
342 another shall be the accrued retirement benefit but shall not be
343 less than 80 percent of his or her average monthly salary at the
344 time of disability.

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

14-02849-08

20081024__

347 185.18 Disability retirement.--For any municipality,
348 chapter plan, local law municipality, or local law plan under
349 this chapter:

350 (5) The benefit payable to a police officer who retires
351 from the service of the city with a total and permanent
352 disability as a result of a disability is the monthly income
353 payable for 10 years certain and life for which, if the police
354 officer's disability occurred in the line of duty, his or her
355 monthly benefit shall be the accrued retirement benefit, but
356 shall not be less than 42 percent of his or her average monthly
357 compensation as of the police officer's disability retirement
358 date. If after 10 years of service the disability is other than
359 in the line of duty, the police officer's monthly benefit shall
360 be the accrued normal retirement benefit, but shall not be less
361 than 25 percent of his or her average monthly compensation as of
362 the police officer's disability retirement date. Notwithstanding
363 any provision to the contrary, the monthly retirement benefit
364 payable to a police officer who retires from service due to total
365 and permanent disability as a result of a catastrophic injury as
366 defined in s. 440.02(38), Florida Statutes 2002, suffered in the
367 line of duty where such injury is a result of a felonious act of
368 another shall be the accrued retirement benefit but shall not be
369 less than 80 percent of the officer's average monthly
370 compensation as of the officer's disability retirement date.

371 Section 6. Effective July 1, 2008, in order to fund the
372 benefits provided in s. 121.091, Florida Statutes, as amended by
373 this act, the contribution rate that applies to the Special Risk
374 Class of the defined benefit program of the Florida Retirement
375 System shall be increased by 0.02 percentage points. This

14-02849-08

20081024__

376 increase shall be in addition to all other changes to such
377 contribution rates which may be enacted into law to take effect
378 on that date. The Division of Statutory Revision is directed to
379 adjust accordingly the contribution rates set forth in s. 121.71,
380 Florida Statutes.

381 Section 7. This act shall take effect July 1, 2008.