

A bill to be entitled

An act relating to retirement; providing a short title; providing legislative intent; providing a statement of important state interest; amending s. 121.091, F.S.; revising provisions relating to benefits payable for total and permanent disability for certain Special Risk Class members of the Florida Retirement System who are injured in the line of duty; deleting a provision authorizing an employing agency to reemploy a retired member as a firefighter or paramedic after a specified period; amending ss. 175.191 and 185.18, F.S.; providing minimum retirement benefits payable to certain Special Risk Class members who are injured in the line of duty and who are totally and permanently disabled due to such injury; providing for contribution rate increases to fund benefits provided in s. 121.091, F.S., as amended; directing the Division of Statutory Revision to adjust contribution rates set forth in s. 121.71, F.S.; providing an effective date.

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

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

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

HB57

2008

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:

HB 57

2008

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

HB 57

2008

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

HB57

2008

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

HB 57

2008

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

HB 57

2008

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

HB 57

2008

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

HB57

2008

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, 2008, 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, 2008.