

1                                   A bill to be entitled  
 2           An act relating to retirement; providing legislative  
 3           intent; providing a statement of important state interest;  
 4           amending s. 121.091, F.S.; revising provisions relating to  
 5           benefits payable for total and permanent disability for  
 6           certain Special Risk Class members of the Florida  
 7           Retirement System who are injured in the line of duty;  
 8           authorizing reemployment of persons who retired with in-  
 9           line-of-duty disability benefits by specified employers;  
 10          authorizing reemployment of a person who retired with in-  
 11          line-of-duty disability benefits by an employer  
 12          participating in a state-administered retirement system  
 13          after 1 calendar month; providing an effective date.

14  
 15   Be It Enacted by the Legislature of the State of Florida:

17           Section 1. It is declared by the Legislature that  
 18           firefighters, emergency medical technicians, paramedics, law  
 19           enforcement officers, correctional officers, and correctional  
 20           probation officers, as defined in this act, perform state and  
 21           municipal functions; that it is their duty to protect life and  
 22           property at their own risk and peril; that it is their duty to  
 23           continuously instruct school personnel, public officials, and  
 24           state residents about safety; and that their activities are  
 25           vital to the public safety. Therefore, the Legislature declares  
 26           that it is a proper and legitimate state purpose to provide a  
 27           uniform retirement system for the benefit of firefighters,  
 28           emergency medical technicians, paramedics, law enforcement

29 officers, correctional officers, and correctional probation  
 30 officers, as defined in this act, and intends, in implementing  
 31 the provisions of s. 14, Art. X of the State Constitution as  
 32 they relate to municipal and special district pension trust fund  
 33 systems and plans, that such retirement systems or plans be  
 34 managed, administered, operated, and funded in such manner as to  
 35 maximize the protection of pension trust funds. Pursuant to s.  
 36 18, Art. VII of the State Constitution, the Legislature hereby  
 37 determines and declares that the provisions of this act fulfill  
 38 an important state interest.

39 Section 2. Paragraph (b) of subsection (4) and subsection  
 40 (9) of section 121.091, Florida Statutes, are amended to read:

41 121.091 Benefits payable under the system.--Benefits may  
 42 not be paid under this section unless the member has terminated  
 43 employment as provided in s. 121.021(39) (a) or begun  
 44 participation in the Deferred Retirement Option Program as  
 45 provided in subsection (13), and a proper application has been  
 46 filed in the manner prescribed by the department. The department  
 47 may cancel an application for retirement benefits when the  
 48 member or beneficiary fails to timely provide the information  
 49 and documents required by this chapter and the department's  
 50 rules. The department shall adopt rules establishing procedures  
 51 for application for retirement benefits and for the cancellation  
 52 of such application when the required information or documents  
 53 are not received.

54 (4) DISABILITY RETIREMENT BENEFIT.--

55 (b) Total and permanent disability.--

56 1. Except as provided in subparagraph 2., a member shall

57 | be considered totally and permanently disabled if, in the  
 58 | opinion of the administrator, he or she is prevented, by reason  
 59 | of a medically determinable physical or mental impairment, from  
 60 | rendering useful and efficient service as an officer or  
 61 | employee.

62 | 2. A member of the Special Risk Class who is a law  
 63 | enforcement officer, firefighter, correctional officer,  
 64 | emergency medical technician, paramedic, or community-based  
 65 | correctional probation officer shall be considered totally and  
 66 | permanently disabled in the line of duty if he or she is  
 67 | prevented, by reason of a medically determinable physical or  
 68 | mental impairment caused by a job-related injury, from  
 69 | performing useful and efficient service in the position held,  
 70 | unless the administrator can provide competent medical evidence  
 71 | to the contrary.

72 | (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

73 | (a) 1. Except as provided in subparagraph 2., any person  
 74 | who is retired under this chapter, except under the disability  
 75 | retirement provisions of subsection (4), may be employed by an  
 76 | employer that does not participate in a state-administered  
 77 | retirement system and may receive compensation from that  
 78 | employment without limiting or restricting in any way the  
 79 | retirement benefits payable to that person.

80 | 2. Any member of the Special Risk Class who retired under  
 81 | the disability retirement provisions of subparagraph (4) (b) 2.  
 82 | may be reemployed by any employer in any position other than a  
 83 | special risk position or the position in which he or she was  
 84 | employed at the time of the disabling illness or injury and may

85 receive compensation from that employment without limiting or  
86 restricting in any way the disability benefits payable to that  
87 person under the Florida Retirement System.

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

101 b. Any member of the Special Risk Class who retired under  
102 the disability retirement provisions of subparagraph (4) (b) 2.  
103 may be reemployed by any employer participating in a state-  
104 administered retirement system after having been retired for 1  
105 calendar month, in accordance with s. 121.021(39). After 1  
106 calendar month of retirement, any such retired member may be  
107 reemployed by any employer in any position other than a special  
108 risk position or the position in which he or she was employed at  
109 the time of the disabling illness or injury and may receive  
110 compensation from that employment without limiting or  
111 restricting in any way the retirement benefits payable to that  
112 person under this chapter.

113           2. Any person to whom the limitation in subparagraph 1.  
114 applies who violates such reemployment limitation and who is  
115 reemployed with any agency participating in the Florida  
116 Retirement System before completion of the 12-month limitation  
117 period shall give timely notice of this fact in writing to the  
118 employer and to the division and shall have his or her  
119 retirement benefits suspended for the balance of the 12-month  
120 limitation period. Any person employed in violation of this  
121 paragraph and any employing agency which knowingly employs or  
122 appoints such person without notifying the Division of  
123 Retirement to suspend retirement benefits shall be jointly and  
124 severally liable for reimbursement to the retirement trust fund  
125 of any benefits paid during the reemployment limitation period.  
126 To avoid liability, such employing agency shall have a written  
127 statement from the retiree that he or she is not retired from a  
128 state-administered retirement system. Any retirement benefits  
129 received while reemployed during this reemployment limitation  
130 period shall be repaid to the retirement trust fund, and  
131 retirement benefits shall remain suspended until such repayment  
132 has been made. Benefits suspended beyond the reemployment  
133 limitation shall apply toward repayment of benefits received in  
134 violation of the reemployment limitation.

135           3. A district school board may reemploy a retired member  
136 as a substitute or hourly teacher, education paraprofessional,  
137 transportation assistant, bus driver, or food service worker on  
138 a noncontractual basis after he or she has been retired for 1  
139 calendar month, in accordance with s. 121.021(39). A district  
140 school board may reemploy a retired member as instructional

141 personnel, as defined in s. 1012.01(2)(a), on an annual  
 142 contractual basis after he or she has been retired for 1  
 143 calendar month, in accordance with s. 121.021(39). Any other  
 144 retired member who is reemployed within 1 calendar month after  
 145 retirement shall void his or her application for retirement  
 146 benefits. District school boards reemploying such teachers,  
 147 education paraprofessionals, transportation assistants, bus  
 148 drivers, or food service workers are subject to the retirement  
 149 contribution required by subparagraph 7.

150 4. A community college board of trustees may reemploy a  
 151 retired member as an adjunct instructor, that is, an instructor  
 152 who is noncontractual and part-time, or as a participant in a  
 153 phased retirement program within the Florida Community College  
 154 System, after he or she has been retired for 1 calendar month,  
 155 in accordance with s. 121.021(39). Any retired member who is  
 156 reemployed within 1 calendar month after retirement shall void  
 157 his or her application for retirement benefits. Boards of  
 158 trustees reemploying such instructors are subject to the  
 159 retirement contribution required in subparagraph 7. A retired  
 160 member may be reemployed as an adjunct instructor for no more  
 161 than 780 hours during the first 12 months of retirement. Any  
 162 retired member reemployed for more than 780 hours during the  
 163 first 12 months of retirement shall give timely notice in  
 164 writing to the employer and to the division of the date he or  
 165 she will exceed the limitation. The division shall suspend his  
 166 or her retirement benefits for the remainder of the first 12  
 167 months of retirement. Any person employed in violation of this  
 168 subparagraph and any employing agency which knowingly employs or

169 | appoints such person without notifying the Division of  
170 | Retirement to suspend retirement benefits shall be jointly and  
171 | severally liable for reimbursement to the retirement trust fund  
172 | of any benefits paid during the reemployment limitation period.  
173 | To avoid liability, such employing agency shall have a written  
174 | statement from the retiree that he or she is not retired from a  
175 | state-administered retirement system. Any retirement benefits  
176 | received by a retired member while reemployed in excess of 780  
177 | hours during the first 12 months of retirement shall be repaid  
178 | to the Retirement System Trust Fund, and retirement benefits  
179 | shall remain suspended until repayment is made. Benefits  
180 | suspended beyond the end of the retired member's first 12 months  
181 | of retirement shall apply toward repayment of benefits received  
182 | in violation of the 780-hour reemployment limitation.

183 |         5. The State University System may reemploy a retired  
184 | member as an adjunct faculty member or as a participant in a  
185 | phased retirement program within the State University System  
186 | after the retired member has been retired for 1 calendar month,  
187 | in accordance with s. 121.021(39). Any retired member who is  
188 | reemployed within 1 calendar month after retirement shall void  
189 | his or her application for retirement benefits. The State  
190 | University System is subject to the retirement ~~retired~~  
191 | contribution required in subparagraph 7., as appropriate. A  
192 | retired member may be reemployed as an adjunct faculty member or  
193 | a participant in a phased retirement program for no more than  
194 | 780 hours during the first 12 months of his or her retirement.  
195 | Any retired member reemployed for more than 780 hours during the  
196 | first 12 months of retirement shall give timely notice in

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197 writing to the employer and to the division of the date he or  
198 she will exceed the limitation. The division shall suspend his  
199 or her retirement benefits for the remainder of the first 12  
200 months of retirement. Any person employed in violation of this  
201 subparagraph and any employing agency which knowingly employs or  
202 appoints such person without notifying the Division of  
203 Retirement to suspend retirement benefits shall be jointly and  
204 severally liable for reimbursement to the retirement trust fund  
205 of any benefits paid during the reemployment limitation period.  
206 To avoid liability, such employing agency shall have a written  
207 statement from the retiree that he or she is not retired from a  
208 state-administered retirement system. Any retirement benefits  
209 received by a retired member while reemployed in excess of 780  
210 hours during the first 12 months of retirement shall be repaid  
211 to the Retirement System Trust Fund, and retirement benefits  
212 shall remain suspended until repayment is made. Benefits  
213 suspended beyond the end of the retired member's first 12 months  
214 of retirement shall apply toward repayment of benefits received  
215 in violation of the 780-hour reemployment limitation.

216 6. The Board of Trustees of the Florida School for the  
217 Deaf and the Blind may reemploy a retired member as a substitute  
218 teacher, substitute residential instructor, or substitute nurse  
219 on a noncontractual basis after he or she has been retired for 1  
220 calendar month, in accordance with s. 121.021(39). Any retired  
221 member who is reemployed within 1 calendar month after  
222 retirement shall void his or her application for retirement  
223 benefits. The Board of Trustees of the Florida School for the  
224 Deaf and the Blind reemploying such teachers, residential



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225 | instructors, or nurses is subject to the retirement contribution  
226 | required by subparagraph 7. Reemployment of a retired member as  
227 | a substitute teacher, substitute residential instructor, or  
228 | substitute nurse is limited to 780 hours during the first 12  
229 | months of his or her retirement. Any retired member reemployed  
230 | for more than 780 hours during the first 12 months of retirement  
231 | shall give timely notice in writing to the employer and to the  
232 | division of the date he or she will exceed the limitation. The  
233 | division shall suspend his or her retirement benefits for the  
234 | remainder of the first 12 months of retirement. Any person  
235 | employed in violation of this subparagraph and any employing  
236 | agency which knowingly employs or appoints such person without  
237 | notifying the Division of Retirement to suspend retirement  
238 | benefits shall be jointly and severally liable for reimbursement  
239 | to the retirement trust fund of any benefits paid during the  
240 | reemployment limitation period. To avoid liability, such  
241 | employing agency shall have a written statement from the retiree  
242 | that he or she is not retired from a state-administered  
243 | retirement system. Any retirement benefits received by a retired  
244 | member while reemployed in excess of 780 hours during the first  
245 | 12 months of retirement shall be repaid to the Retirement System  
246 | Trust Fund, and his or her retirement benefits shall remain  
247 | suspended until payment is made. Benefits suspended beyond the  
248 | end of the retired member's first 12 months of retirement shall  
249 | apply toward repayment of benefits received in violation of the  
250 | 780-hour reemployment limitation.

251 |         7. The employment by an employer of any retiree or DROP  
252 | participant of any state-administered retirement system shall

253 have no effect on the average final compensation or years of  
254 creditable service of the retiree or DROP participant. Prior to  
255 July 1, 1991, upon employment of any person, other than an  
256 elected officer as provided in s. 121.053, who has been retired  
257 under any state-administered retirement program, the employer  
258 shall pay retirement contributions in an amount equal to the  
259 unfunded actuarial liability portion of the employer  
260 contribution which would be required for regular members of the  
261 Florida Retirement System. Effective July 1, 1991, contributions  
262 shall be made as provided in s. 121.122 for retirees with  
263 renewed membership or subsection (13) with respect to DROP  
264 participants.

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

281 earned.

282 9. Any person who is holding an elective public office  
 283 which is covered by the Florida Retirement System and who is  
 284 concurrently employed in nonelected covered employment may elect  
 285 to retire while continuing employment in the elective public  
 286 office, provided that he or she shall be required to terminate  
 287 his or her nonelected covered employment. Any person who  
 288 exercises this election shall receive his or her retirement  
 289 benefits in addition to the compensation of the elective office  
 290 without regard to the time limitations otherwise provided in  
 291 this subsection. No person who seeks to exercise the provisions  
 292 of this subparagraph, as the same existed prior to May 3, 1984,  
 293 shall be deemed to be retired under those provisions, unless  
 294 such person is eligible to retire under the provisions of this  
 295 subparagraph, as amended by chapter 84-11, Laws of Florida.

296 10. The limitations of this paragraph apply to  
 297 reemployment in any capacity with an "employer" as defined in s.  
 298 121.021(10), irrespective of the category of funds from which  
 299 the person is compensated.

300 11. Except as provided in subparagraph 12., an employing  
 301 agency may reemploy a retired member as a firefighter or  
 302 paramedic after the retired member has been retired for 1  
 303 calendar month, in accordance with s. 121.021(39). Any retired  
 304 member who is reemployed within 1 calendar month after  
 305 retirement shall void his or her application for retirement  
 306 benefits. The employing agency reemploying such firefighter or  
 307 paramedic is subject to the retirement ~~retired~~ contribution  
 308 required in subparagraph 7. ~~8.~~ Reemployment of a retired

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309 firefighter or paramedic is limited to no more than 780 hours  
310 during the first 12 months of his or her retirement. Any retired  
311 member reemployed for more than 780 hours during the first 12  
312 months of retirement shall give timely notice in writing to the  
313 employer and to the division of the date he or she will exceed  
314 the limitation. The division shall suspend his or her retirement  
315 benefits for the remainder of the first 12 months of retirement.  
316 Any person employed in violation of this subparagraph and any  
317 employing agency which knowingly employs or appoints such person  
318 without notifying the Division of Retirement to suspend  
319 retirement benefits shall be jointly and severally liable for  
320 reimbursement to the Retirement System Trust Fund of any  
321 benefits paid during the reemployment limitation period. To  
322 avoid liability, such employing agency shall have a written  
323 statement from the retiree that he or she is not retired from a  
324 state-administered retirement system. Any retirement benefits  
325 received by a retired member while reemployed in excess of 780  
326 hours during the first 12 months of retirement shall be repaid  
327 to the Retirement System Trust Fund, and retirement benefits  
328 shall remain suspended until repayment is made. Benefits  
329 suspended beyond the end of the retired member's first 12 months  
330 of retirement shall apply toward repayment of benefits received  
331 in violation of the 780-hour reemployment limitation.

332 12.a. An employing agency may reemploy a retired member  
333 who retired under the disability provisions of subparagraph  
334 (4) (b)2. as a law enforcement officer, firefighter, correctional  
335 officer, emergency medical technician, paramedic, or community-  
336 based correctional probation officer after the retired member

337 has been retired for 1 calendar month, in accordance with s.  
338 121.021(39).

339 b. Such retired member may not be reemployed with any  
340 employer in the position he or she held at the time of the  
341 disabling illness or injury or any position that is included in  
342 the Special Risk Class.

343 c. The employing agency reemploying such a member is  
344 subject to the retirement contribution required in subparagraph  
345 7.

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

350 1. Such retirees may not be reemployed with an employer  
351 participating in the Florida Retirement System as provided in  
352 paragraph (b) until such person has been retired for 3 calendar  
353 months, unless the participant has reached the normal retirement  
354 requirements of the defined benefit plan as provided in s.  
355 121.021(29).

356 2. Such retiree employed in violation of this subsection  
357 and any employing agency that knowingly employs or appoints such  
358 person shall be jointly and severally liable for reimbursement  
359 of any benefits paid to the retirement trust fund from which the  
360 benefits were paid, including the Retirement System Trust Fund  
361 and the Public Employee Optional Retirement Program Trust Fund,  
362 as appropriate. To avoid liability, such employing agency must  
363 have a written statement from the retiree that he or she is not  
364 retired from a state-administered retirement system.

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Section 3. This act shall take effect July 1, 2009.