

By Representative Atwater

1                                   A bill to be entitled  
2           An act relating to the City of West Palm Beach,  
3           Palm Beach County; amending and readopting  
4           section 16 of chapter 24981, Laws of Florida,  
5           1947, as amended, relating to the West Palm  
6           Beach Police Pension Fund; providing for the  
7           creation of the fund; providing definitions;  
8           providing for a board of trustees; providing  
9           for professional and clerical services;  
10          providing for reports, experience tables, and  
11          regular interest; providing for membership;  
12          providing for service credit; providing for age  
13          and service requirements for retirement;  
14          providing for retirement pension calculation;  
15          providing for cost-of-living adjustments;  
16          providing for Chapter 185 share accounts;  
17          providing for supplemental pension  
18          distribution; providing for Deferred Retirement  
19          Option Plan; providing for nonduty disability  
20          pension; providing for duty disability pension;  
21          providing for conditions applicable to all  
22          disability retirants; providing for death  
23          benefits; providing for workers' compensation  
24          offsets; providing for members' contributions  
25          and refunds; providing for sources of revenue;  
26          providing for investments; providing for  
27          continuation of existing benefits; prohibiting  
28          assignments; providing for subrogation rights;  
29          providing applicability of ordinances;  
30          providing review procedures; providing for lump  
31          sum payment of small retirement income;

1 providing for pickup of member contributions;  
2 providing for Internal Revenue Code limits;  
3 providing for required distributions; providing  
4 for rollovers from qualified plans; providing  
5 for transfer of leave; providing for rollover  
6 distributions; providing miscellaneous  
7 requirements; providing for actuarial  
8 assumptions; repealing all laws in conflict  
9 herewith; providing an effective date.

10

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

12

13 Section 1. Section 16 of chapter 24981, Laws of  
14 Florida, 1947, as amended, is amended and readopted to read:  
15 (Substantial rewording of section. See

16 chapter 93-373, Laws of Florida, as amended  
17 by chapters 96-526, 97-336, 99-483, 2000-410,  
18 and 2001-312, Laws of Florida, for present text.)

19 Section 16. West Palm Beach Police Pension Fund.--

20 (1) Creation of fund.--There is hereby created and  
21 established a special fund for the police officers of the City  
22 of West Palm Beach to be known as the West Palm Beach Police  
23 Pension Fund. All assets of every description held in the name  
24 of the West Palm Beach Police Pension and Relief Fund and in  
25 the name of the West Palm Beach Pension Fund have been and  
26 continue to be combined.

27 (2) Definitions.--The following words or phrases, as  
28 used in this act, shall have the following meanings, unless a  
29 different meaning is clearly indicated by the context:

30 (a) "Actuarial equivalent value," "actuarial  
31 equivalence," or "single sum value" means the stated

1 determination using an interest rate of 8.25 percent per year  
2 and the 1983 Group Annuity Mortality Table.

3 (b) "Beneficiary" means any person, except a retirant,  
4 who is entitled to receive a benefit from the West Palm Beach  
5 Police Pension Fund or the West Palm Beach Police Pension and  
6 Relief Fund, as applicable.

7 (c) "Board of Trustees" or "Board" means the Board of  
8 Trustees provided for in this act.

9 (d) "City" means the City of West Palm Beach, Florida.

10 (e) "Department" means the Police Department in the  
11 City of West Palm Beach.

12 (f) "Enrolled actuary" means an actuary who is  
13 enrolled under Subtitle C of Title III of the Employee  
14 Retirement Income Security Act of 1974 and who is a member of  
15 the Society of Actuaries or the American Academy of Actuaries.

16 (g) "Final average salary" means the average of the  
17 monthly salary paid a member in the 3 best years of  
18 employment.

19 (h) "Fund" or "Pension Fund" means the West Palm Beach  
20 Police Pension Fund or the West Palm Beach Pension and Relief  
21 Fund, as applicable.

22 (i) "Member" or "participant" means any person who is  
23 included in the membership of the Fund in accordance with  
24 subsection (6).

25 (j) "Pension" means a monthly amount payable from the  
26 Fund throughout the future life of a person, or for a limited  
27 period of time, as provided in this act.

28 (k) "Police officer" means any person who is elected,  
29 appointed, or employed full time by the City, who is certified  
30 or required to be certified as a law enforcement officer in  
31 compliance with section 943.14, Florida Statutes, who is

1 vested with authority to bear arms and make arrests, and whose  
2 primary responsibility is the prevention and detection of  
3 crime or the enforcement of the penal, criminal, traffic, or  
4 highway laws of the state. This definition includes all  
5 certified supervisory and command personnel whose duties  
6 include, in whole or in part, the supervision, training,  
7 guidance, and management responsibilities of full-time law  
8 enforcement officers, part-time law enforcement officers, or  
9 auxiliary law enforcement officers, but does not include  
10 part-time law enforcement officers or auxiliary law  
11 enforcement officers as the same are defined in subsections  
12 (6) and (8) of section 943.10, Florida Statutes.

13 (l) "Qualified health professional" means a person  
14 duly and regularly engaged in the practice of his or her  
15 profession who holds a professional degree from a university  
16 or college and has special professional training or skill  
17 regarding the physical or mental condition, disability, or  
18 lack thereof, upon which he or she is to present evidence to  
19 the Board.

20 (m) "Qualified public depository" means any bank or  
21 savings association organized and existing under the laws of  
22 Florida and any bank or savings association organized under  
23 the laws of the United States that has its principal place of  
24 business, or a branch office, in Florida which is authorized  
25 under the laws of Florida or the United States to receive  
26 deposits in Florida; that meets all of the requirements of  
27 chapter 280, Florida Statutes; and that has been designated by  
28 the Treasurer of the State of Florida as a qualified public  
29 depository.

30 (n) "Retirant" means any member who retires with a  
31 pension from the Fund.

1       (o) "Retirement" means a member's withdrawal from City  
2 employment with a pension payable from the Fund.

3       (p) "Salary" means the fixed monthly compensation paid  
4 to a member; compensation shall include those items as have  
5 been included as compensation in accordance with past  
6 practice. However, the term shall not be construed to include  
7 lump sum payments for accumulated leave. On and after January  
8 1, 1997, compensation shall mean payment for regular hours  
9 worked, overtime payments for services performed for the City,  
10 hazardous duty pay, holiday pay, educational supplements,  
11 longevity pay, specialized assignment pay, and any payments  
12 for approved leave, excluding lump sum payments for  
13 accumulated leave such as accrued vacation leave, accrued sick  
14 leave, and accrued personal leave. This definition of  
15 compensation shall not include off-duty employment performed  
16 for vendors other than the City of West Palm Beach per Article  
17 37, Salary Plan Section 7 of the Officers' and Sergeants'  
18 Contract and Article 36, Salary Plan Section 5 of the  
19 Lieutenants' Contract.

20       (q) "Service" or "service credit" means the total  
21 number of years, and fractional parts of years, of employment  
22 of any police officer, omitting intervening years, and  
23 fractional parts of years, when such police officer was not  
24 employed by the City. No member shall receive credit for  
25 years, or fractional parts of years, of service for which the  
26 member has withdrawn his or her contributions to the Fund. It  
27 is further provided that a member may voluntarily leave his or  
28 her contributions in the Fund for a period of 5 years after  
29 leaving the employ of the Department, pending the possibility  
30 of being rehired by the Department, without losing credit for  
31 the time he or she has participated actively as a police

1 officer. Should he or she not be reemployed as a police  
2 officer with the Department within 5 years, his or her  
3 contributions shall be returned without interest. In  
4 determining the aggregate number of years of service of any  
5 member, the time spent in the military service of the United  
6 States or United States Merchant Marine by the police officer  
7 on leave of absence for such reason shall be added to the  
8 years of service. However, to receive credit for such service,  
9 the member must have reentered the employ of the Department  
10 within 1 year after date of release from such service.

11 (r) The masculine gender includes the feminine and  
12 words in the singular with respect to persons shall include  
13 the plural and vice versa.

14 (3) Board of Trustees of Police Pension Fund.--

15 (a) Board of Trustees created.--There is hereby  
16 created a Board of Trustees, which shall be solely responsible  
17 for administering the West Palm Beach Police Pension Fund. The  
18 Board shall be a legal entity, with the power to bring and  
19 defend lawsuits of every kind, nature, and description and  
20 shall be independent of the City to the extent required to  
21 accomplish the intent, requirements, and responsibilities  
22 provided for in this act. The Board shall consist of five  
23 trustees, as follows:

24 1. Two legal residents of the City, who shall be  
25 appointed by the City. Each resident trustee shall serve as a  
26 trustee for a period of 2 years, unless sooner replaced by the  
27 City, at whose pleasure he or she shall serve, and may succeed  
28 himself or herself as a trustee.

29 2. Two police officers, who shall be elected by a  
30 majority of the police officers who are members of the Fund.  
31 Elections shall be held under such reasonable rules and

1 regulations as the Board shall from time to time adopt. Each  
2 member-trustee shall serve as trustee for a period of 2 years,  
3 unless he or she sooner ceases to be a police officer in the  
4 employ of the Department, whereupon the members shall choose  
5 his or her successor in the same manner as the original  
6 appointment. Each member-trustee of the Fund may succeed  
7 himself or herself as a trustee.

8 3. A fifth trustee, who shall be chosen by a majority  
9 of the other four trustees. This fifth person's name shall be  
10 submitted to the City, which shall, as a ministerial duty,  
11 appoint such person to the Board as a fifth trustee. The fifth  
12 person shall serve as trustee for a period of 2 years, and may  
13 succeed himself or herself as a trustee.

14 (b) Board vacancy; how filled.--In the event a trustee  
15 provided for in subparagraph (a)2. ceases to be a police  
16 officer in the employ of the Department, he or she shall be  
17 considered to have resigned from the Board. In the event a  
18 trustee provided for in subparagraph (a)2. shall resign, be  
19 removed, or become ineligible to serve as a trustee, the Board  
20 shall, by resolution, declare the office of trustee vacated as  
21 of the date of adoption of said resolution. If such a vacancy  
22 occurs in the office of trustee within 90 days of the next  
23 succeeding election for trustee, the vacancy shall be filled  
24 at the regular election for the unexpired portion of the term;  
25 otherwise, the vacancy shall be filled for the unexpired  
26 portion of the term, as provided in subparagraph (a)2. In the  
27 event a trustee provided for in subparagraph (a)1. or  
28 subparagraph (a)3. shall resign, be removed, or become  
29 ineligible to serve as a trustee, the Board shall, by  
30 resolution, declare the office of trustee vacated as of the  
31 date of adoption of said resolution. The trustee's successor

1 for the unexpired portion of said trustee's term shall be  
2 chosen in the same manner as an original appointment.

3 (c) Board meetings; quorum; procedures.--The Board  
4 shall hold meetings regularly, at least one in each quarter  
5 year, and shall designate the time and place thereof. At any  
6 meeting of the Board, three trustees shall constitute a  
7 quorum. Each trustee shall be entitled to one vote on each  
8 question before the Board and at least three concurring votes  
9 shall be required for a decision by the Board at any of its  
10 meetings. The Board shall adopt its own rules of procedure and  
11 shall keep a record of its proceedings. All public records of  
12 the Board shall be kept and maintained as required by law. All  
13 meetings of the Board shall be open to the public and shall be  
14 held as required by law.

15 (d) Board chair.--The Board shall elect from among the  
16 trustees a chair.

17 (e) Board secretary.--The Board shall elect from among  
18 the trustees a secretary. The secretary shall keep a complete  
19 minute book of the actions, proceedings, and hearings of the  
20 Board.

21 (f) Compensation.--The trustees of the Fund shall not  
22 receive any compensation for their services as such, but may  
23 receive expenses and per diem as provided by law.

24 (4) Professional and clerical services.--

25 (a) Pension administrator.--The pension administrator  
26 of the Fund shall be designated by the Board and shall carry  
27 out its orders and directions.

28 (b) Custodian of funds.--All moneys and securities of  
29 the Fund may be deposited with the cash management coordinator  
30 of the City, acting in a ministerial capacity only, who shall  
31 be bonded and shall be liable in the same manner and to the



1 same extent as he or she is liable for the safekeeping of  
2 funds for the City. However, any funds and securities  
3 deposited with the cash management coordinator shall be kept  
4 in a separate fund by the cash management coordinator or  
5 clearly identified as funds and securities of the Fund. In  
6 lieu thereof, the Board shall deposit the Funds and securities  
7 in a qualified public depository designated by the Board.  
8       1. The cash management coordinator or other designated  
9 qualified public depository shall receive all moneys due said  
10 Fund from all sources whatsoever. All tax revenue received  
11 pursuant to the provisions of chapter 185, Florida Statutes,  
12 shall be deposited into the Fund no more than 5 days after  
13 receipt. Member contributions withheld by the City on behalf  
14 of a member shall be deposited in the Fund immediately.  
15       2. The Board may issue drafts upon the Fund pursuant  
16 to this act and rules and regulations prescribed by the Board,  
17 provided that such drafts shall be issued in accordance with  
18 generally accepted accounting procedures, American Institute  
19 of Certified Public Accountants guidelines, and rules of the  
20 State of Florida Auditor General. All such drafts shall be  
21 consecutively numbered and signed by the chair and secretary,  
22 and each draft shall, upon its face, state the purpose for  
23 which it is drawn. For this purpose, the chair and secretary  
24 shall be bonded. The cash management coordinator or other  
25 depository shall retain such drafts when paid, as permanent  
26 vouchers for disbursements made, and no money shall be  
27 otherwise drawn from the Fund. Payments from the Fund shall be  
28 made only upon a specific or general motion or resolution  
29 previously adopted by the Board authorizing such payment or  
30 payments.  
31

1       (c) Legal counsel.--The City Attorney shall give  
2 advice to the Board in all matters pertaining to its duties in  
3 the administration of the Fund whenever requested, shall  
4 represent and defend the Board as its attorney in all suits  
5 and actions at law or in equity that may be brought against  
6 it, and shall bring all suits and actions in its behalf that  
7 may be required or determined upon by said Board. However, if  
8 the Board so elects, it may employ independent legal counsel  
9 at the Fund's expense for the purposes set forth in this act.

10       (d) Actuary.--The Board shall designate an enrolled  
11 actuary who shall be its technical advisor and who shall  
12 perform such other actuarial services as are required.

13       (e) Certified public accountant.--The Board shall  
14 employ, at its expense, a certified public accountant to  
15 conduct an independent audit of the Fund. The certified public  
16 accountant shall be independent of the Board and the City.

17       (f) Additional professional, technical, or other  
18 services.--The Board shall have the authority to employ such  
19 professional, technical, or other advisors as are required to  
20 carry out the provisions of this act.

21       (5) Reports; experience tables; regular interest.--

22       (a) Reports.--The pension administrator shall keep, or  
23 cause to be kept, such data as shall be necessary for an  
24 actuarial valuation of the assets and liabilities of the Fund.

25       (b) Experience tables; regular interest; adoption of  
26 same.--The Board shall, from time to time, adopt such  
27 mortality and other tables of experience, and a rate or rates  
28 of interest, as required to operate the Fund on an actuarial  
29 basis.

30       (6) Membership.--All police officers in the employ of  
31 the Department shall be included in the membership of the

1 Fund, and all persons who hereafter become police officers in  
2 the employ of the City shall thereupon become members of the  
3 Fund. Except as otherwise provided in this act, should any  
4 member cease to be a police officer in the employ of the  
5 Department, he or she shall thereupon cease to be a member and  
6 his or her credited service at that time shall be forfeited.  
7 In the event such person is reemployed in the Department as a  
8 police officer, he or she shall again become a member. Should  
9 said employment occur within a period of 6 years from and  
10 after the date the member last left the employ of the  
11 Department, his or her forfeited service shall be restored to  
12 the member's credit, provided that he or she returns to the  
13 Fund the amount he or she might have withdrawn, together with  
14 regular interest from the date of withdrawal to the date of  
15 repayment. Upon the member's retirement or death, he or she  
16 shall thereupon cease to be a member.

17 (7) Service credit.--Pursuant to appropriate rules and  
18 regulations, the Board shall determine and credit the amount  
19 of service to which each member shall be credited, consistent  
20 with the provisions of this act and chapter 185, Florida  
21 Statutes.

22 (8) Age and service requirements for retirement.--

23 (a) Normal retirement.--Upon written application filed  
24 with the Board, any member may retire and receive the  
25 applicable pension provided for in paragraph (9)(a), provided  
26 that the member has attained age 50 and has at least 20 years  
27 of credited service, has attained age 55 and has at least 10  
28 years of credited service, or has at least 25 years of  
29 continuous credited service, regardless of age.

30 (b) Vested deferred retirement.--A member who leaves  
31 the employ of the Department with 10 or more years of credited

1 service and who is not eligible for any other retirement  
2 benefit under this act shall be entitled to the pension  
3 provided for in this subsection. Payments of this pension  
4 shall begin the first day of the calendar month following the  
5 month in which his or her application is filed with and  
6 accepted by the Board on or after attainment of age 50 years.  
7 If applicable, the amount of the pension shall be determined  
8 in accordance with the early retirement provisions below.

9 (c) Early retirement.--Any member may retire from the  
10 service of the Department as of the first day of any calendar  
11 month which is prior to the member's normal retirement date  
12 but subsequent to the date as of which he or she has both  
13 attained the age of 50 and completed 10 years of credited  
14 service. In the event of early retirement, the monthly amount  
15 of retirement income payable shall be computed as described in  
16 paragraph (9)(a), taking into account his or her credited  
17 service to his or her date of actual retirement and his or her  
18 final average salary as of such date. The amount of retirement  
19 income shall be actuarially reduced to take into account the  
20 member's younger age and earlier commencement of retirement  
21 income benefits. The early retirement reduction shall be 3  
22 percent for each year by which the member's age at retirement  
23 preceded the member's normal retirement age.

24 (9) Retirement pension calculation.--

25 (a) Upon retirement eligibility as provided in  
26 subsection (8), a member shall receive a monthly pension. The  
27 pension shall be the following, as applicable:

28 1. A member who has more than or equal to 12 years and  
29 6 months of service at October 1, 1999, and who was actively  
30 employed by the Department on or after October 1, 1999, shall  
31 receive a benefit equal to the greater of the following:

1           a. Three percent of final average salary multiplied by  
2 the number of years, and fraction of a year, of credited  
3 service earned from April 1, 1987, plus 2.5 percent of final  
4 average salary multiplied by the number of years, and fraction  
5 of a year, of credited service earned prior to April 1, 1987,  
6 up to a total of 26 years, plus 1 percent of the final average  
7 salary multiplied by the number of years, and fraction of a  
8 year, of credited service which is in excess of 26 years;

9           b. Two and one-half percent of final average salary  
10 multiplied by the number of years, and fraction of a year, of  
11 credited service, not to exceed 26 years, plus 1 percent of  
12 the final average salary multiplied by the number of years,  
13 and fraction of a year, of credited service which is in excess  
14 of 26 years; or

15           c. The sum of the following:

16           (I) Two and one-half percent of final average salary  
17 multiplied by the number of years, and fraction of a year, of  
18 credited service earned through September 30, 1988; and

19           (II) Two percent of final average salary multiplied by  
20 the number of years, and fraction of a year, of credited  
21 service earned on and after October 1, 1988.

22  
23 However, in no event shall the benefit be less than 2 percent  
24 per year of credited service.

25           2. A member who has more than 12 years and 6 months of  
26 service and who has entered the DROP on or before October 1,  
27 1999, and who was actively employed by the Department on  
28 October 1, 1999, shall receive a benefit equal to the greater  
29 of the following:

30           a. Three percent of final average salary multiplied by  
31 the number of years, and fraction of a year, of credited

1 service earned in the 12 years and 6 months prior to entering  
2 the DROP, plus 2.5 percent final average salary multiplied by  
3 the number of years, and fraction of a year, of credited  
4 service earned prior to that date which is 12 years and 6  
5 months prior to entering the DROP, up to a total of 26 years,  
6 plus 1 percent of the final average salary multiplied by the  
7 number of years, and fraction of a year, of credited service  
8 which is in excess of 26 years. The one-half percent  
9 enhancement to the accrual rate shall also be applied  
10 retroactively to the date of entering the DROP, or 2 years,  
11 whichever is less, provided that the retroactive application  
12 shall include principal only and not any earnings thereon. An  
13 example of the calculation described in this sub-subparagraph  
14 is set forth in the collective bargaining agreement between  
15 the City of West Palm Beach and the Police Benevolent  
16 Association, Certified Unit No. 825, October 1, 1998-September  
17 30, 2001;

18 b. Two and one-half percent of final average salary  
19 multiplied by the number of years, and fraction of a year, of  
20 credited service, not to exceed 26 years, plus 1 percent of  
21 the final average salary multiplied by the number of years,  
22 and fraction of a year, of credited service which is in excess  
23 of 26 years; or

24 c. The sum of the following:

25 (I) Two and one-half percent of final average salary  
26 multiplied by the number of years, and fraction of a year, of  
27 credited service earned through September 30, 1988; and

28 (II) Two percent of final average salary multiplied by  
29 the number of years, and fraction of a year, of credited  
30 service earned on and after October 1, 1988.

31

1 However, in no event shall the benefit be less than 2 percent  
2 per year of credited service.

3 3. A member who has less than 12 years and 6 months of  
4 service on October 1, 1999, and who was actively employed by  
5 the Department on or after October 1, 1999, shall receive a  
6 benefit equal to the greater of the following:

7 a. Three percent of final average salary multiplied by  
8 the number of years, and fraction of a year, of credited  
9 service up to a total of 26 years, plus 1 percent of the final  
10 average salary multiplied by the number of years, and fraction  
11 of a year, of credited service which is in excess of 26 years;

12 b. Two and one-half percent of final average salary  
13 multiplied by the number of years, and fraction of a year, of  
14 credited service, not to exceed 26 years, plus 1 percent of  
15 the final average salary multiplied by the number of years,  
16 and fraction of a year, of credited service which is in excess  
17 of 26 years; or

18 c. The sum of the following:

19 (I) Two and one-half percent of final average salary  
20 multiplied by the number of years, and fraction of a year, of  
21 credited service earned through September 30, 1988; and

22 (II) Two percent of final average salary multiplied by  
23 the number of years, and fraction of a year, of credited  
24 service earned on and after October 1, 1988.

25

26 However, in no event shall the benefit be less than 2 percent  
27 per year of credited service.

28 4. A member who terminated employment, retired on a  
29 vested deferred benefit, or retired on or before October 1,  
30 1999, shall receive a benefit equal to the greater of the  
31 following:

1           a. Two and one-half percent of final average salary  
2 multiplied by the number of years, and fraction of a year, of  
3 credited service not to exceed 26 years, plus 1 percent of the  
4 final average salary multiplied by the number of years, and  
5 fraction of a year, of credited service which is in excess of  
6 26 years; or

7           b. The sum of the following:

8           (I) Two and one-half percent of final average salary  
9 multiplied by the number of years, and fraction of a year, of  
10 credited service earned through September 30, 1988; and

11           (II) Two percent of final average salary multiplied by  
12 the number of years, and fraction of a year, of credited  
13 service earned on and after October 1, 1988.

14  
15 The 3-percent benefit accrual factor for active employees in  
16 subparagraphs (a)1., 2., 3., and 4. is contingent on and  
17 subject to the adoption and maintenance of the assumptions set  
18 forth in subsection (34). If such assumptions are modified by  
19 legislative, judicial, or administrative agency action and the  
20 modification results in increased City contributions to the  
21 Pension Fund, the 3-percent benefit accrual factor for active  
22 employees in subparagraphs (a)1., 2., and 3. shall be  
23 automatically decreased prospectively from the date of the  
24 action, to completely offset the increase in City  
25 contributions. However, in no event shall the benefit accrual  
26 factor in subparagraphs (a)1., 2., 3., and 4. be adjusted  
27 below 2.5 percent.

28  
29 To the extent that the benefit accrual factor is less than 3  
30 percent for active members with less than 12 years and 6  
31 months of service on October 1, 1999, the supplemental pension



1 distribution calculation under subparagraph (12)(a)2. shall be  
2 adjusted for employees who retire or enter the DROP after  
3 October 1, 1999. The adjustment shall be to decrease the  
4 minimum return of 8.25 percent needed to afford the  
5 supplemental pension distribution, where the amount of the  
6 reduction is zero if an employee has been credited with 12  
7 years and 6 months of service or more with the 3-percent  
8 benefit accrual factor or 1.25 percent if an employee has been  
9 credited with no more than a 2.5-percent benefit accrual  
10 factor. If an employee has been credited with less than 12  
11 years and 6 months of service at the 3-percent benefit accrual  
12 factor, then the accumulated amount over 2.5 percent for each  
13 year of service divided by one-half percent divided by 12.5  
14 subtracted from 1 multiplied by 1.25 percent is the reduction  
15 from 8.25 percent. An example of the calculation of the  
16 minimum return for the supplemental pension distribution as  
17 herein described is set forth in the collective bargaining  
18 agreement between the City of West Palm Beach and the Police  
19 Benevolent Association, Certified Unit No. 145 and Certified  
20 Unit No. 825, October 1, 1998-September 30, 2001.

21 (b) Payment of benefits.--

22 1. First payment.--Service pensions shall be payable  
23 on the first day of each month. The first payment shall be  
24 payable the first day of the month coincident with or next  
25 following the date of retirement or death, provided the member  
26 has completed the applicable age and service requirements.

27 2. Last payment.--The last payment shall be the  
28 payment due next preceding the member's death, except that  
29 payments shall be continued to the designated beneficiary (or  
30 beneficiaries) if a 10-year certain benefit, a joint and

31

1 survivor option, or beneficiary benefits, as applicable, are  
2 payable.

3 (c) Normal form of retirement income; 10-year certain  
4 benefit.--

5 1. Married member.--The normal form of retirement  
6 benefit for a married member or for a member with dependent  
7 children or parents shall be a pension and death benefits. The  
8 pension benefit shall provide monthly payments for the life of  
9 the member. Thereafter, death benefits shall be paid to the  
10 beneficiary designated by the member as provided in subsection  
11 (17).

12 2. Unmarried member.--The normal form of retirement  
13 benefit for an unmarried member without dependent children or  
14 parents shall be a 10-year certain benefit. This benefit shall  
15 pay monthly benefits for the member's lifetime. In the event  
16 the member dies after his or her retirement but before  
17 receiving retirement benefits for a period of 10 years, the  
18 same monthly benefit shall be paid to the beneficiary (or  
19 beneficiaries) as designated by the member for the balance of  
20 such 10-year period or, if no beneficiary is designated, to  
21 heirs at law, or estate of the member, as provided in section  
22 185.162, Florida Statutes.

23 (d) Optional forms of retirement income.--

24 1.a. In the event of normal, early, or disability  
25 retirement, in lieu of the normal form of retirement income  
26 payable as specified in paragraph (c), and in lieu of the  
27 death benefits as specified in subsection (17), a member, upon  
28 written request to the Board and subject to the approval of  
29 the Board, may elect to receive a retirement income of  
30 equivalent actuarial value payable in accordance with one of  
31 the following options:

1           (I) Lifetime option.--A retirement income of a larger  
2 monthly amount, payable to the member for his or her lifetime  
3 only.  
4           (II) Joint and survivor option.--A retirement income  
5 of a modified monthly amount, payable to the member during the  
6 joint lifetime of the member and a dependent joint pensioner  
7 designated by the member, and following the death of either of  
8 them, 100 percent, 75 percent, 66-2/3 percent, or 50 percent  
9 of such monthly amounts, payable to the survivor for the  
10 lifetime of the survivor.  
11           b. The member, upon electing any option of this  
12 paragraph, shall designate the joint pensioner or beneficiary  
13 (or beneficiaries) to receive the benefit, if any, payable in  
14 the event of his or her death, and shall have the power to  
15 change such designation from time to time; but any such change  
16 shall be deemed a new election and shall be subject to  
17 approval by the Board. Such designation shall name a joint  
18 pensioner or one or more primary beneficiaries where  
19 applicable. If a member has elected an option with a joint  
20 pensioner or beneficiary and his or her retirement income  
21 benefits have commenced, he or she may thereafter change the  
22 designated joint pensioner or beneficiary only twice.  
23           c. The consent of a member's joint pensioner or  
24 beneficiary to any such change shall not be required. However,  
25 the spouse of a married member must consent to any election to  
26 waive a joint and survivor benefit by signing the election  
27 before a notary public. The spouse's written consent must  
28 acknowledge the effect of such a waiver. Consent of the spouse  
29 shall not be required if the spouse cannot be located, or for  
30 such other circumstances as may be prescribed by regulations  
31

1 of the secretary or the treasurer. Any consent by a spouse  
2 shall be effective only with respect to such spouse.  
3 d. The Board may request such evidence of the good  
4 health of the joint pensioner who is being removed as it may  
5 require; and the amount of the retirement income payable to  
6 the member upon the designation of a new joint pensioner shall  
7 be actuarially redetermined, taking into account the ages and  
8 sex of the former joint pensioner, the new joint pensioner,  
9 and the member. Each such designation shall be made in writing  
10 on a form prepared by the Board, and, on completion, shall be  
11 filed with the Board. In the event that no designated  
12 beneficiary survives the member, such benefits as are payable  
13 in the event of the death of the member subsequent to his or  
14 her retirement shall be paid as provided in subparagraph (c)2.  
15 2. Retirement income payments shall be made under the  
16 option elected in accordance with the provisions of this  
17 paragraph and shall be subject to the following limitations:  
18 a. If a member dies prior to his or her normal  
19 retirement date or early retirement date, whichever first  
20 occurs, retirement benefits shall be paid in accordance with  
21 subsection (17).  
22 b. If the designated beneficiary (or beneficiaries) or  
23 joint pensioner dies before the member's retirement, the  
24 option elected shall be canceled automatically and a  
25 retirement income of the normal form and amount shall be  
26 payable to the member upon his or her retirement as if the  
27 election had not been made, unless a new election is made in  
28 accordance with the provisions of this paragraph or a new  
29 beneficiary is designated by the member prior to his or her  
30 retirement.  
31

1           c. If a member continues in the employ of the  
2 Department after meeting the age and service requirements set  
3 forth in paragraph (8)(a) and dies prior to retirement and  
4 while an option provided for in this paragraph is in effect,  
5 monthly retirement income payments shall be paid, under the  
6 option, to a beneficiary (or beneficiaries) designated by the  
7 member in the amount or amounts computed as if the member had  
8 retired under the option on the date on which his or her death  
9 occurred.

10           3. No member may make any change in his or her  
11 retirement option after the date of cashing or depositing the  
12 first retirement check.

13           (e) Designation of beneficiary.--

14           1. Each member may, on a form provided for that  
15 purpose, signed and filed with the Board, designate a  
16 beneficiary (or beneficiaries) to receive the benefit, if any,  
17 which may be payable in the event of the member's death; and  
18 each designation may be revoked by such member by signing and  
19 filing with the Board a new designation of beneficiary form.  
20 However, after the benefits have commenced, a retirant may  
21 change his or her designation of a joint annuitant or  
22 beneficiary only twice. If the retirant desires to change his  
23 or her joint annuitant or beneficiary, he or she shall file  
24 with the Board a notarized notice of such change either by  
25 registered letter or on a form as provided by the Board. Upon  
26 receipt of a completed change of joint annuitant form or such  
27 other notice, the Board shall adjust the member's monthly  
28 benefit by the application of actuarial tables and  
29 calculations developed to ensure that the benefit paid is the  
30 actuarial equivalent of the present value of the member's  
31 current benefit.

1           2. Absence or death of beneficiary.--If a deceased  
2 member failed to name a beneficiary in the manner prescribed  
3 in subparagraph 1., or if the beneficiary (or beneficiaries)  
4 named by a deceased member predeceases the member, death  
5 benefits, if any, which may be payable under this act on  
6 behalf of such deceased member may be paid, in the discretion  
7 of the Board, to:  
8           a. The spouse or dependent child or children of the  
9 member;  
10           b. The dependent living parent or parents of the  
11 member; or  
12           c. The estate of the member.  
13           (10) Cost-of-living adjustments.--  
14           (a) The following words and phrases as used in this  
15 subsection mean:  
16           1. Unadjusted amount of retirement benefit.--The  
17 amount of retirement benefit that would be paid a retiree or  
18 beneficiary of the provisions if this subsection were not  
19 applicable.  
20           2. Consumer price index.--The consumer price index for  
21 urban wage earners and clerical workers as published by the  
22 United States Department of Labor, Bureau of Labor Statistics.  
23 Should the Bureau of Labor Statistics adopt a new base or  
24 modify the method of computation of the consumer price index  
25 so as to render it unsuitable, the Board shall make  
26 appropriate adjustments. The Board shall choose another index  
27 which it determines to be appropriate if the consumer price  
28 index is no longer published.  
29           3. Retirement benefit effective date.--The date as of  
30 which payments of a retirement benefit first commence. A new  
31

1 effective date does not occur when a retiree dies and a  
2 retirement allowance is paid to a beneficiary.

3 4. Base month.--The more recent of the month of  
4 October 1976, the month and year of the retirement benefit  
5 effective date, or the month and year in which the retiree  
6 attains age 64 years.

7 (b) Subject to the limitations stated in this  
8 subsection, the unadjusted amount of the retirement benefit  
9 for retirees 65 years of age or older shall be increased each  
10 January 1, beginning January 1, 1977. The retirement benefit  
11 shall increase by 3 percent multiplied by the number of  
12 complete years from the later of:

13 1. January 1, 1976;  
14 2. The retirement benefit effective date; or  
15 3. The first day of the month after attainment of age  
16 65 years to January 1 of the year in which the adjustment is  
17 being made.

18 (c) The accumulated adjustments to a retirement  
19 benefit after January 1, 1977, expressed as a percentage of  
20 the unadjusted amount of retirement allowance, shall not  
21 exceed the percentage increase in the consumer price index for  
22 the period between the base month and the month of October in  
23 the year preceding adjustment.

24 (d) An adjustment shall not be made on any January  
25 first if the amount of the adjustment is less than 1 percent  
26 of the unadjusted amount of retirement benefit.

27 (11) Chapter 185 share accounts.--

28 (a) A separate individual member account shall be  
29 established and maintained in each member's name effective  
30 October 1, 1988.

31 (b) Share account funding.--

1           1. Chapter 185 moneys.--Each individual member account  
2 shall be credited with the moneys received from chapter 185,  
3 Florida Statutes, tax revenues in June 1988 and thereafter.

4           2. Forfeitures.--In addition, any forfeitures as  
5 provided in paragraph (e) shall be credited to the individual  
6 member accounts in accordance with the formula set forth in  
7 paragraph (c).

8           (c) Annual allocation of accounts.--

9           1. Moneys shall be credited to each individual member  
10 account in an amount directly proportionate to the number of  
11 pay periods for which the member was paid compared to the  
12 total number of pay periods for which all members were paid,  
13 counting the pay periods in the calendar year preceding the  
14 date for which chapter 185, Florida Statutes, tax revenues  
15 were received.

16           2. At the end of each fiscal year (September 30), each  
17 individual member account shall be adjusted to reflect the  
18 earnings or losses resulting from investment, as well as  
19 reflecting the costs, fees, and expenses of administration.

20           3. The investment earnings (or losses) credited to the  
21 individual member accounts shall be the same percentage as are  
22 earned (or lost) by the total investment earnings (or losses)  
23 of the Fund as a whole, unless the Board dedicates a separate  
24 investment portfolio for chapter 185, Florida Statutes, share  
25 accounts, in which case the investment earnings (or losses)  
26 shall be measured by the investment earnings (or losses) of  
27 the separate investment portfolio.

28           4. Costs, fees, and expenses of administration shall  
29 be debited from the individual member accounts on a  
30 proportionate basis, taking the costs, fees, and expenses of  
31 administration of the Fund as a whole, multiplied by a



1 fraction, the numerator of which is the total of the assets in  
2 all individual member accounts and the denominator of which is  
3 the total of the assets of the Fund as a whole. The  
4 proportionate share of the costs, fees, and expenses shall be  
5 debited to each individual member account on a pro rata basis  
6 in the same manner as chapter 185, Florida Statutes, tax  
7 revenues are credited to each individual member account (i.e.,  
8 based on pay periods).

9 5. If the entire balance of the individual member  
10 account is withdrawn before September 30 of any year, there  
11 shall be no adjustment made to that individual member account  
12 to reflect either investment earnings (or losses) or costs,  
13 fees, and expenses of administration.

14 (d) Eligibility for benefits.--Any member who  
15 terminates employment with the City, upon application filed  
16 with the Board, shall be entitled to 100 percent of the value  
17 of his or her individual member account, provided the member  
18 meets any of the following criteria:

19 1. The member is eligible to receive a pension as  
20 provided in subsection (8);

21 2. The member has 5 or more years of credited service  
22 and is eligible to receive either:

23 a. A nonduty disability pension as provided in  
24 paragraph (14)(a); or

25 b. Death benefits for nonduty death as provided in  
26 paragraph (17)(a); or

27 3. The member has any credited service and is eligible  
28 to receive either:

29 a. A duty disability pension as provided in subsection  
30 (15); or

31

1           b. Death benefits for death in the line of duty as  
2 provided in paragraph (17)(b).

3           (e) Forfeitures.--Any member who has less than 10  
4 years of credited service and who is not eligible for payment  
5 of benefits after termination of employment with the City  
6 shall forfeit his or her individual member account. The  
7 amounts credited to said individual member account shall be  
8 redistributed to the remaining individual member accounts in  
9 the same manner as chapter 185, Florida Statutes, tax revenues  
10 are credited (i.e., based on pay periods).

11           (f) Payment of benefits.--The normal form of benefit  
12 payment shall be a lump sum payment of the entire balance of  
13 the member's individual member account or upon the written  
14 election of the member, upon a form provided by the Board; and  
15 payment shall be made:

- 16           1. Over 3 years in annual installments; or  
17           2. In monthly installments over the lifetime of the  
18 member or until the entire balance is exhausted. The monthly  
19 amount paid shall be determined by the Fund's actuary in  
20 accordance with selections made by the member on a form  
21 provided by the Board of Trustees.

22           (g) Death of member.--If a member dies and is eligible  
23 for benefits from the individual member account, the entire  
24 balance of the individual member account shall be converted to  
25 the name of the beneficiary designated in accordance with  
26 paragraph (9)(e). The entire balance shall be paid out in a  
27 lump sum to the beneficiary, at the discretion of the  
28 beneficiary. If the designated beneficiary is the surviving  
29 spouse, the account may remain with the Fund until the latest  
30 period specified under subsection (30). These individual  
31 accounts shall not be eligible for any further shares of the

1 Chapter 185 moneys but shall be credited with interest. If a  
2 member fails to designate a beneficiary, or if the beneficiary  
3 predeceases the member, the entire balance shall be converted,  
4 in the following order, to the name or names of:

5 1. The member's surviving children on a pro rata  
6 basis;

7 2. If no children are alive, the member's spouse;

8 3. If no spouse is alive, the member's surviving  
9 parents on a pro rata basis; or

10 4. If none are alive, the estate of the member.

11  
12 The accounts which are converted to the names of the  
13 beneficiaries shall have the right to name a successor  
14 beneficiary. Any designated beneficiary, other than the  
15 surviving spouse of the member, must take a distribution of  
16 the entire share account balance by the end of 5 years  
17 following the death of the member. Installment distributions  
18 which begin in the calendar year of the member's death shall  
19 be treated as complying with this 5-year distribution  
20 requirement, even though the installments are not completed  
21 within 5 years after the member's death.

22 (12) Supplemental pension distribution.--

23 (a) The Board of Trustees shall annually authorize a  
24 supplemental pension distribution, the amount of which shall  
25 be determined as of each September 30, as applicable.

26 1. For employees who retired prior to October 1, 1999,  
27 the amount of the distribution shall be equal to the actuarial  
28 present value of future pension payments to current  
29 pensioners, multiplied by the positive difference, if any,  
30 between the rate of investment return (not to exceed 9  
31

1 percent) and 7 percent, plus one-half of any investment  
2 earnings over 9 percent.

3 2. For those employees who have more than 12-1/2 years  
4 of service on and after October 1, 1999, or who are part of  
5 the DROP on or after October 1, 1999, the amount of the  
6 distribution shall be equal to the actuarial present value of  
7 future pension payments to those pensioners multiplied by the  
8 positive difference, if any, between the rate of investment  
9 return (not to exceed 9 percent) and 7 percent, plus one-half  
10 of any investment earnings over 9 percent.

11 3. For those employees who have less than 12-1/2 years  
12 of service as of October 1, 1999, the amount of the  
13 distribution shall be equal to the actuarial present value of  
14 future pension payments to those pensioners multiplied by the  
15 positive difference, if any, between the rate of investment  
16 return (not to exceed 9 percent) and 8.25 percent, plus  
17 one-half of any investment earnings over 9 percent.

18 (b) The actuary shall determine whether there may be a  
19 supplemental pension distribution based on the following  
20 factors:

21 1. The actuary for the Pension Fund shall determine  
22 the rate of investment return earned on the Pension Fund  
23 assets during the 12-month period ending each September 30.  
24 The rate determined shall be the rate reported in the most  
25 recent actuarial report submitted pursuant to part VII of  
26 chapter 112, Florida Statutes.

27 2. The actuary for the Pension Fund shall, as of  
28 September 30, determine the actuarial present value of future  
29 pension payments to current pensioners. The actuarial present  
30 values shall be calculated using an interest rate of 7 percent  
31 per year compounded annually, and a mortality table approved

1 by the Board of Trustees and as used in the most recent  
2 actuarial report submitted pursuant to part VII of chapter  
3 112, Florida Statutes.

4 3. The supplemental pension distribution amount shall  
5 not exceed accumulated net actuarial experience from all  
6 pension liabilities and assets. If the net actuarial  
7 experience is favorable, cumulatively, commencing with the  
8 experience for the year ending September 30, 1991, after  
9 offset for all prior supplemental distributions, the  
10 supplemental distribution may be made. If the net actuarial  
11 experience is unfavorable, cumulatively, commencing with the  
12 experience for the year ended September 30, 1991, after offset  
13 for all prior supplemental distributions, no supplemental  
14 distribution may be made, and the City must amortize the loss  
15 until it is offset by cumulative favorable experience.

16  
17 If an actuarial report submitted as provided in this paragraph  
18 is not state accepted prior to distribution, and if a  
19 deficiency to the Pension Fund results, the deficiency shall  
20 be made up from the next available supplemental pension  
21 distribution, unless sooner made up by agreement between the  
22 Board of Trustees and the City. No such deficiency shall be  
23 permitted to continue for a period greater than 3 years from  
24 the date of payment of the supplemental pension distribution  
25 which resulted from the deficiency.

26 (c) If the actuary determines there may be a  
27 supplemental distribution, the Board of Trustees shall  
28 authorize a "supplemental pension distribution," unless the  
29 administrative expenses of distribution exceed the amount  
30 available for the distribution.

31 (d) Eligible persons are:

- 1           1. Pensioners.  
2           2. Surviving spouses.  
3           3. Surviving dependent children.  
4           4. Pensioners' estates.  
5           (e) The supplemental pension distribution shall be  
6 allocated among eligible persons based upon years of service  
7 in the proportion that the eligible person's years of service  
8 bear to the aggregate amount of years of service of all  
9 eligible persons. Allocations for surviving spouses and  
10 surviving dependent children who are eligible to receive  
11 supplemental pension distributions shall be 66-2/3 percent of  
12 the years of service earned by the pensioner. Maximum service  
13 credits shall be 25 years. Allocations for duty-disability  
14 pensioners shall be based upon 25 years of service.  
15 Allocations for duty-death beneficiaries (surviving spouse and  
16 surviving dependent children) shall be based upon 66-2/3  
17 percent of 25 years of service.  
18           (f) The supplemental pension distribution shall be  
19 made as of April 1, 1992, and each April 1 thereafter. Each  
20 eligible person shall be paid his or her allocated portion  
21 from the preceding September 30. Eligible persons retired for  
22 less than 1 year are entitled to a pro rata share of their  
23 supplemental pension distribution based on the number of  
24 months retired. A pensioner's estate is entitled to a pro rata  
25 share of the deceased retirant's supplemental pension  
26 distribution based on the number of months that the deceased  
27 retirant received a pension during the year ending the  
28 September 30 prior to the retirant's death.  
29           (13) Deferred Retirement Option Plan (DROP).--  
30           (a) Eligibility to participate in the DROP.--  
31

- 1           1. Any member who is eligible to receive a normal  
2 retirement pension may participate in the DROP. Members shall  
3 elect to participate by applying to the Board of Trustees on a  
4 form provided for that purpose.
- 5           2. Election to participate shall be forfeited if not  
6 exercised within the first 27 years of combined credited  
7 service.
- 8           3. A member shall not participate in the DROP beyond  
9 the time of attaining 30 years of service and the total years  
10 of participation in the DROP shall not exceed 5 years. For  
11 example:
- 12           a. Members with 25 years of credited service at the  
13 time of entry shall participate for only 5 years.
- 14           b. Members with 26 years of credited service at the  
15 time of entry shall participate for only 4 years.
- 16           c. Members with 27 years of credited service at the  
17 time of entry shall participate for only 3 years.
- 18           4. Upon a member's election to participate in the  
19 DROP, he or she shall cease to be a member and shall no longer  
20 accrue any benefits under the Pension Fund, except for the  
21 benefits provided under subsection (11), Chapter 185 share  
22 accounts. For all Fund purposes, the member becomes a  
23 retirant, except that a DROP participant shall continue to  
24 receive shares of the chapter moneys in accordance with  
25 subsection (11), Chapter 185 share accounts. The amount of  
26 credited service shall freeze as of the date of entry into the  
27 DROP.
- 28           5. Notwithstanding any provision of this section to  
29 the contrary, the Police Chief in the Department may, at his  
30 or her option, extend his or her participation in the DROP  
31 beyond 5 years or 30 years of total service. For purposes of

1 this subsection, "Police Chief" means a member who has been  
2 promoted from police officer through the ranks of the  
3 Department to the position of Police Chief. Any such Police  
4 Chief shall not participate in the DROP beyond the attainment  
5 of 33 years of service, and the total years of participation  
6 in the DROP shall not exceed 8 years.

7 (b) Amounts payable upon election to participate in  
8 DROP.--

9 1. Monthly retirement benefits that would have been  
10 payable had the member terminated employment with the  
11 Department and elected to receive monthly pension payments  
12 shall be paid into the DROP and credited to the retirant.  
13 Payments into the DROP shall be made monthly over the period  
14 the retirant participates in the DROP, up to a maximum of 60  
15 months.

16 2. Payments to the DROP earn interest using the rate  
17 of investment return earned on Pension Fund assets as reported  
18 by the Fund's investment monitor. However, if a police officer  
19 does not terminate employment at the end of participation in  
20 the DROP, interest credits shall cease on the current balance  
21 and on all future DROP deposits.

22 3. No payments shall be made from the DROP until the  
23 member terminates employment with the Department.

24 4. Upon termination of employment, participants in the  
25 DROP shall receive the balance of the DROP account in  
26 accordance with the following rules:

27 a. Members may elect to begin to receive payment upon  
28 termination of employment or defer payment of the DROP until  
29 the latest day as provided under sub-subparagraph c.

30 b. Payments shall be made in either:  
31



1       (I) Lump sum.--The entire account balance shall be  
2 paid to the retirant upon approval of the Board of Trustees.

3       (II) Installments.--The account balance shall be paid  
4 out to the retirant in three equal payments paid over 3 years,  
5 the first payment to be made upon approval of the Board of  
6 Trustees.

7       (III) Annuity.--The account balance shall be paid out  
8 in monthly installments over the lifetime of the member or  
9 until the entire balance is exhausted. Monthly amount paid  
10 shall be determined by the Fund's actuary in accordance with  
11 selections made by the member on a form provided by the Board  
12 of Trustees.

13       c. Any form of payment selected by a police officer  
14 must comply with the minimum distribution requirements of s.  
15 401(A)(9) of the Internal Revenue Code and is subject to the  
16 requirements of subsection (29) of this act; e.g., payments  
17 must commence by age 70-1/2.

18       d. The beneficiary of the DROP participant who dies  
19 before payments from the DROP begin shall have the same right  
20 as the participant in accordance with subsection (17).

21       (c) Loans from the DROP.--

22       1. Availability of loans.--

23       a. Loans are available to members only after  
24 termination of employment, provided the member had  
25 participated in the DROP for a period of 12 months.

26       b. Loans may only be made from a member's own account.

27       c. There may be no more than one loan at a time.

28       2. Amount of loan.--

29       a. Loans may be made up to a maximum of 50 percent of  
30 account balance.

31

- 1           b. The maximum dollar amount of a loan is \$50,000,  
2 reduced by the highest outstanding loan balance during the  
3 last 12 months.
- 4           c. The minimum amount of a loan is \$5,000.
- 5           3. Limitations on loans.--Loans shall be made from the  
6 amounts paid into the DROP and the earnings thereon.
- 7           4. Term of loan.--
- 8           a. The loan must be for at least 1 year.
- 9           b. The loan shall be no longer than 5 years.
- 10          5. Loan interest rate.--
- 11          a. The interest rate shall be fixed at the time the  
12 loan is originated for the entire term of the loan.
- 13          b. The interest rate shall be equal to the prime rate  
14 published by an established local bank on the last day of each  
15 calendar quarter preceding the date of loan application.
- 16          6. Defaults on loans.--
- 17          a. Loans shall be in default if 2 consecutive months'  
18 repayments are missed or if a total of 4 months' repayments  
19 are missed.
- 20          b. Upon default, the entire balance becomes due and  
21 payable immediately.
- 22          c. If a loan in default is not repaid in full  
23 immediately, the loan may be canceled and the outstanding  
24 balance treated as a distribution, which may be taxable.
- 25          d. Upon default of a loan, a member shall not be  
26 eligible for additional loans.
- 27          7. Miscellaneous provisions.--
- 28          a. All loans must be evidenced by a written loan  
29 agreement signed by the member and the Board of Trustees. The  
30 agreement shall contain a promissory note.
- 31

1           b. A member's spouse must consent in writing to the  
2 loan. The consent shall acknowledge the effect of the loan on  
3 the member's account balance.

4           c. Loans shall be considered a general asset of the  
5 Fund.

6           d. Loans shall be subject to administrative fees to be  
7 set by the Board of Trustees.

8           (14) Nonduty disability pension.--

9           (a) Retirement.--Any member who entered the employ of  
10 the Department as a police officer after September 30, 1961,  
11 and who has 5 or more years of credited service, who becomes  
12 physically or mentally, totally and permanently disabled to  
13 perform the duties of a police officer, shall be retired with  
14 a pension provided for in this subsection upon his or her  
15 application, or upon the application of the Police Chief on  
16 his or her behalf, filed with the Board, provided that after a  
17 medical examination of the member made by or under the  
18 direction of the medical committee, the medical committee  
19 reports to the Board in writing whether:

20           1. The member is wholly prevented from rendering  
21 useful and efficient service as a police officer; and

22           2. The member is likely to remain so disabled  
23 continuously and permanently.

24  
25 The Board may admit and consider any other evidence that will  
26 assist it in understanding the medical committee's report. The  
27 final decision as to whether a member meets the requirements  
28 for a nonduty disability pension rests with the Board and  
29 shall be based on substantial competent evidence on the record  
30 as a whole.

31

1       (b) Nonduty disability pension benefits; disability  
2 occurs after age and service eligibility.--A member whose  
3 retirement on account of disability, as provided in paragraph  
4 (a), occurs on or after the date he or she became eligible to  
5 retire under subsection (8) shall receive the applicable  
6 pension provided for in subsection (9).

7       (c) Nonduty disability pension benefits; disability  
8 occurs before age and service eligibility.--A member whose  
9 retirement on account of disability, as provided in paragraph  
10 (a), occurs prior to the date he or she would have become  
11 eligible to retire under paragraph (8)(a) shall receive a  
12 disability pension equal to the applicable pension payable in  
13 subsection (9), provided that:

14           1. If the member has less than 10 years of credited  
15 service, the disability pension shall not be less than 20  
16 percent of his or her final average salary as of his or her  
17 disability retirement date;

18           2. If the member has at least 10 years of credited  
19 service, the disability pension shall not be less than 25  
20 percent of his or her final average salary as of his or her  
21 disability retirement date; and

22           3. The disability pension shall be subject to the  
23 provisions of subsection (18).

24       (15) Duty disability pension.--

25       (a) Retirement.--Any member who becomes physically or  
26 mentally, totally and permanently disabled to perform the  
27 duties of a police officer by reason of a personal injury or  
28 disease arising out of and in the course of the performance of  
29 his or her duties as a police officer in the employ of the  
30 City shall be retired with a pension provided for in this  
31 subsection, provided that, after a medical examination of the

1 member made by or under the direction of the medical  
2 committee, the medical committee reports to the Board in  
3 writing whether:

4 1. The member is wholly prevented from rendering  
5 useful and efficient service as a police officer; and

6 2. The member is likely to remain so disabled  
7 continuously and permanently.

8  
9 The Board may admit and consider any other evidence that will  
10 assist it in understanding the medical committee's report. Any  
11 condition or impairment of health of a member caused by  
12 tuberculosis, hypertension, heart disease or hardening of the  
13 arteries, hepatitis, or meningococcal meningitis resulting in  
14 total or partial disability or death shall be presumed to be  
15 accidental and suffered in line of duty unless the contrary be  
16 shown by competent evidence. Any condition or impairment of  
17 health caused directly or proximately by exposure, which  
18 exposure occurred in the active performance of duty at some  
19 definite time or place without willful negligence on the part  
20 of the member, resulting in total or partial disability shall  
21 be presumed to be accidental and suffered in the line of duty,  
22 provided that such member shall have successfully passed a  
23 physical examination upon entering such service, which  
24 physical examination, including electrocardiogram, failed to  
25 reveal any evidence of such condition. In order to be entitled  
26 to the presumption in the case of hepatitis, meningococcal  
27 meningitis, or tuberculosis, the member must meet the  
28 requirements of section 112.181, Florida Statutes. The final  
29 decision as to whether a member meets the requirements for  
30 duty disability pension rests with the Board and shall be  
31

1 based on substantial competent evidence on the record as a  
2 whole.

3 (b) Duty disability pension benefits; disability  
4 occurs after age and service eligibility.--A member whose  
5 retirement on account of disability, as provided in paragraph  
6 (a), occurs on or after the date he or she becomes eligible to  
7 retire under subsection (8) shall receive the applicable  
8 pension provided for in subsection (9).

9 (c) Duty disability pension benefits; disability  
10 occurs before age and service eligibility.--A member whose  
11 retirement on account of disability, as provided in paragraph  
12 (a), occurs prior to the date he or she would become eligible  
13 to retire under subsection (8) shall receive a disability  
14 pension equal to the appropriate pension payable in subsection  
15 (9). The disability pension payable to age 55 shall not be  
16 less than two-thirds of his or her final average salary. Upon  
17 reaching age 55, the member shall begin receiving a pension  
18 computed in accordance with the applicable provisions of  
19 subsection (9). In calculating the new pension figure, the  
20 member shall be given service credit for the period he or she  
21 was in receipt of the disability pension provided for in this  
22 paragraph. Any pension payable under this subsection shall be  
23 subject to the provisions of subsection (18).

24 (16) Conditions applicable to all disability  
25 retirants.--

26 (a) Medical committee.--The medical committee provided  
27 for in subsections (14) and (15) shall consist of no less than  
28 two qualified health professionals, one of whom shall be  
29 designated by the Board, and one by the member. If deemed  
30 necessary by the Board, a third qualified health professional,  
31 selected by the two committee members previously designated,

1 may be named to the medical committee. The member shall be  
2 responsible for the expenses of the qualified health  
3 professional he or she designates to serve on the medical  
4 committee. Expenses for any other medical examination required  
5 under this act shall be paid by the Fund. The medical  
6 committee shall report to the Board the existence and degree  
7 of permanent physical impairment of the member, if any, based  
8 upon the most recent edition of the American Medical  
9 Association's Guide to the Evaluation of Permanent Impairment,  
10 if applicable.

11 (b) Exclusions from disability pensions.--No  
12 disability pension shall be payable, either as a duty  
13 disability or as a nonduty disability, if the disability is  
14 the result of:

15 1. Excessive and habitual use by the member of drugs,  
16 intoxicants, or narcotics;

17 2. Injury or disease sustained by the member while  
18 willfully and illegally participating in fights, riots, or  
19 civil insurrections or while committing a crime;

20 3. Injury or disease sustained by the member while  
21 serving in any armed forces;

22 4. Injury or disease sustained by the member after his  
23 or her employment has terminated;

24 5. Injury or disease sustained by the member while  
25 working for anyone other than the City and arising out of such  
26 employment; or

27 6. Injury or disease sustained by the member before  
28 employment with the City begins. This subparagraph applies  
29 only in the event of a duty injury or disease.

30 (c) Payment of disability pensions.--Monthly  
31 disability retirement benefits shall be payable as of the date

1 the Board determines that the member was entitled to a  
2 disability pension; however, the first payment shall actually  
3 be paid on the first day of the first month after the Board  
4 determines such entitlement. Any portion due for a partial  
5 month shall be paid together with the first payment. The last  
6 payment shall be, if the member recovers from the disability  
7 prior to his or her normal retirement date, the payment due  
8 next preceding the date of recovery or, if the member dies  
9 without recovering from his or her disability, then the  
10 following shall apply:

11 1. Member with 10 or more years of service.--Death  
12 benefits as set forth in subsection (17) shall be paid.

13 2. Member with less than 10 years of  
14 service.--Payments shall be made until the member's death.

15  
16 Any monthly disability retirement income payments due after  
17 the death of a disabled member shall be paid to the member's  
18 designated beneficiary (or beneficiaries) as provided in  
19 section 185.162, Florida Statutes, or paragraph (9)(e) or  
20 subsection (17), as applicable.

21 (d) Normal form of disability retirement income.--

22 1. Duty or nonduty disability with 10 years of  
23 service.--

24 a. Married member.--The standard form of disability  
25 retirement benefit for a married member or for a member with  
26 dependent children or parents shall be a disability pension  
27 and death benefit. This form of benefit shall provide monthly  
28 payments for the life of the member as set forth in subsection  
29 (14) or subsection (15), as applicable, or the disability  
30 retiree may select optional forms of benefits in accordance  
31



1 with paragraph (9)(d). Thereafter, death benefits shall be  
2 paid as provided in subsection (17).

3 b. Unmarried member.--The standard form of disability  
4 retirement benefit for a member who is not married or who does  
5 not have dependent children or parents shall be a 10-year  
6 certain benefit. This benefit shall pay monthly benefits for  
7 the member's lifetime. In the event the member dies after his  
8 or her retirement but before he or she has received disability  
9 retirement benefits for a period of 10 years, the same monthly  
10 benefit shall be paid to the beneficiary (or beneficiaries) as  
11 designated by the member for the balance of such 10-year  
12 period. In the absence of a designated beneficiary, then the  
13 benefits shall be paid to the estate of the retiree.

14 2. Duty or nonduty disability with less than 10 years  
15 of service.--The standard form of disability retirement  
16 benefit shall provide monthly payments for the life of a  
17 member as set forth in subsection (14) or subsection (15), as  
18 applicable. Thereafter, beneficiary benefits shall be paid as  
19 provided in subsection (17), as applicable.

20 (e) Reexaminations of disability retirants.--At least  
21 once each year during the first 5 years following a member's  
22 retirement on account of disability, and at least once in each  
23 3-year period thereafter, the Board shall require any  
24 disability retirant who has not attained age 50 to undergo a  
25 medical examination by a physician designated by the Board. If  
26 the retirant refuses to submit to the medical examination, his  
27 or her disability pension may be suspended by the Board until  
28 his or her withdrawal of such refusal. If such refusal  
29 continues for 1 year, all of his or her rights in and to a  
30 disability pension may be revoked by the Board. If, upon  
31 medical examination of such retirant, the physician reports to

1 the Board that the retirant is physically able and capable of  
2 performing the duties of a police officer in the rank held by  
3 him or her at the time of his or her retirement, the retirant  
4 shall be returned to employment in the Department at a salary  
5 not less than the salary of the rank previously held by him or  
6 her. The disability pension shall then terminate.

7 (f) Credited service for disability retirant.--In the  
8 event a disability retirant is returned to employment in the  
9 Department, as provided in paragraph (e), he or she shall  
10 again become a member of the Fund and shall be restored the  
11 credited service at the time of the member's retirement. If he  
12 or she retired under a duty disability as provided in  
13 paragraph (15)(a), he or she shall be given service credit for  
14 the period he or she was in receipt of a disability pension.  
15 If the member retired under a nonduty disability as provided  
16 in paragraph (14)(a), then he or she shall not be given  
17 service credit for the period he or she was in receipt of a  
18 disability pension.

19 (17) Death benefits.--

20 (a) Nonduty death while employed by the department; 5  
21 years or more.--In the event a member who has 5 or more years  
22 of credited service dies, and the Board finds his or her death  
23 to have occurred as the result of causes arising outside the  
24 performance of his or her duties as a member, the following  
25 applicable pensions shall be paid:

26 1. A pension equal to two-thirds of the pension to  
27 which he or she would have been entitled under subsection (9)  
28 if he or she had retired the day preceding the date of his or  
29 her death, notwithstanding that he or she might not have  
30 satisfied a retirement age and service requirement stipulated  
31 in subsection (8), provided that the "widow's pension" shall

1 not be less than one-seventh of the member's final average  
2 salary. Upon the surviving spouse's death, the pension shall  
3 terminate. Any pension payable under this paragraph shall be  
4 subject to the provisions of subsection (18).

5 2. In the event the deceased member does not leave a  
6 surviving spouse, or if the surviving spouse dies and the  
7 member leaves an unmarried child or children under age 18,  
8 each such child shall receive a pension of any equal share of  
9 the pension to which the said deceased member's surviving  
10 spouse was entitled or would have been entitled if he or she  
11 left a surviving spouse. Upon any such child's adoption,  
12 marriage, death, or attainment of age 18, the child's pension  
13 shall terminate and it shall be apportioned to the pensions  
14 payable to the said deceased member's remaining eligible  
15 children under the age of 18. In no case shall the pension  
16 payable to any such child exceed one-seventh of the deceased  
17 member's final average salary, nor shall it be less than \$15  
18 per month. Any pension payable under this paragraph shall be  
19 subject to the provisions of subsection (18).

20 3. In the event the deceased member does not leave a  
21 surviving spouse or children eligible to receive a pension and  
22 the member leaves a parent or parents who the Board finds are  
23 dependent upon the member for at least 50 percent of his, her,  
24 or their financial support, each parent shall receive a  
25 pension of an equal share of the pension to which the member's  
26 surviving spouse would have been entitled if he or she had  
27 left a surviving spouse. Upon any such parent's remarriage or  
28 death, his or her pension shall terminate. Any pension payable  
29 under this paragraph shall be subject to the provisions of  
30 subsection (18).

31

1           4. In the event the deceased member does not leave a  
2 surviving spouse, children, or parents to receive a pension,  
3 then the death benefit, if any, shall be paid to the estate of  
4 the deceased member.

5  
6 In any of the above cases, the Board, in its discretion, may  
7 direct that the actuarial value of the monthly benefit be paid  
8 as a lump sum.

9           (b) Duty death.--In the event a member dies and the  
10 Board finds his or her death to be the natural and proximate  
11 result of a personal injury or disease arising out of and in  
12 the course of his or her actual performance of the duties as a  
13 police officer in the employ of the City, the following  
14 applicable pensions shall be paid:

15           1. The surviving spouse shall receive a pension equal  
16 to four-ninths of the member's final average salary. Upon the  
17 surviving spouse's death, the pension shall terminate. Any  
18 pension payable under this paragraph shall be subject to the  
19 provisions of subsection (18).

20           2. If, in addition to a surviving spouse, the deceased  
21 member leaves an unmarried child or children under age 18,  
22 each child shall receive a pension of \$150 per month. Upon any  
23 child's adoption, marriage, death, or attainment of age 18,  
24 the child's pension shall terminate. Any pension payable under  
25 this paragraph shall be subject to the provisions of  
26 subsection (18).

27           3. In the event the deceased member does not leave a  
28 surviving spouse, or if the surviving spouse dies, and the  
29 member leaves an unmarried child or children under age 18,  
30 each such child shall receive a pension of an equal share of  
31 one-third of the deceased member's final average salary. Upon

1 any such child's adoption, marriage, death, or attainment of  
2 age 18, the child's pension shall terminate and it shall be  
3 apportioned to the pensions payable to the deceased member's  
4 remaining eligible children under age 18. Any pension payable  
5 under this paragraph shall be subject to the provisions of  
6 subsection (18).

7 4. Any pensions payable, under subparagraphs 2. and 3.  
8 above, to any child under age 18 shall be paid to his or her  
9 legal guardian.

10 5. In the event the deceased member does not leave a  
11 surviving spouse or children under age 18 eligible to receive  
12 a pension provided for in subparagraph 1., subparagraph 2., or  
13 subparagraph 3., and the member leaves a parent or parents who  
14 the Board finds are dependent upon the member for at least 50  
15 percent of his, her, or their financial support, then each  
16 parent shall receive a pension of an equal share of one-third  
17 of the deceased member's final average salary. Upon any such  
18 parent's remarriage or death, his or her pension shall  
19 terminate. Any pension payable under this paragraph shall be  
20 subject to the provisions of subsection (18).

21 6. In the event the deceased member does not leave a  
22 surviving spouse, children, or parents eligible to receive a  
23 pension, then the death benefit, if any, shall be paid to the  
24 estate of the deceased member. In any of the above cases, the  
25 Board, in its discretion, may direct that the actuarial value  
26 of the monthly benefit be paid as a lump sum.

27 (c) Death after retirement.--Upon the death of a  
28 retirant, the following applicable pensions shall be paid,  
29 subject to the provisions of subsection (18):

30 1. The surviving spouse of the retirant shall receive  
31 a pension of two-thirds of the retirant's pension, provided

1 that the retirant was receiving a pension under paragraph  
2 (9)(a). Upon the surviving spouse's death, the pension shall  
3 terminate.

4 2. In the event the deceased retirant does not leave a  
5 surviving spouse eligible to receive a pension, or if the  
6 surviving spouse dies and he or she leaves an unmarried child  
7 or children under age 18, each child shall receive a pension  
8 of an equal share of two-thirds of the deceased retirant's  
9 pension. Upon any child's adoption, marriage, death, or  
10 attainment of age 18, the child's pension shall terminate and  
11 it shall be apportioned to the pensions payable to the  
12 deceased retirant's remaining eligible children under age 18.  
13 In no case shall the pension payable to any such child exceed  
14 20 percent of the deceased retirant's pension, or be less than  
15 \$15 per month.

16 3. In the event the deceased retirant does not leave a  
17 surviving spouse or children eligible to a pension provided  
18 for in subparagraphs 1. and 2. above, and he or she leaves a  
19 parent or parents who the Board finds are dependent upon the  
20 retirant for at least 50 percent of his, her, or their  
21 financial support, each parent shall receive a pension of an  
22 equal share of two-thirds of the deceased retirant's pension.  
23 Upon any parent's remarriage or death, his or her pension  
24 shall terminate.

25 4. In the event the deceased member does not leave a  
26 surviving spouse, children, or parents eligible to receive a  
27 pension, then the death benefit, if any, shall be paid to the  
28 estate of the deceased member.

29  
30  
31

1 In any of the above cases, the Board, in its discretion, may  
2 direct that the actuarial value of the monthly benefit be paid  
3 as a lump sum.

4 (18) Workers' compensation offset.--The pension  
5 benefits payable under this act shall not be offset by any  
6 workers' compensation benefits payable as a result of the  
7 disability or death of a member, except to the extent that the  
8 total of the pension benefit and workers' compensation benefit  
9 exceeds the member's average monthly wage.

10 (19) Member's contributions; refunds.--

11 (a) Member's contributions.--

12 1. The member shall contribute 7 percent of his or her  
13 salary to the Fund.

14 2. The City shall cause the contributions provided for  
15 in subparagraph 1. to be deducted from the compensation of  
16 each member on each payroll, for each pay period, so long as  
17 he or she remains a member of the Fund. The member's  
18 contributions provided for herein shall be made,  
19 notwithstanding that the minimum compensation provided by law  
20 for any member is thereby changed. Each member shall be deemed  
21 to consent and agree to the deductions made and provided for  
22 herein. Payment of compensation, less said deductions, shall  
23 be a full and complete discharge and acquittance of all claims  
24 and demands whatsoever for the services rendered by him or her  
25 during the period covered by such payment, except as to  
26 benefits provided by this act. When deducted, each of said  
27 contributions shall be paid into the Fund and credited to the  
28 individual member from whose compensation said deduction was  
29 made.

30 3. In addition to the contribution deducted from the  
31 compensation of a member, as hereinbefore provided, a member

1 shall deposit in the Fund, by a single contribution or by an  
2 increased rate of contribution, as approved by the Board of  
3 Trustees, the amount of previously withdrawn member  
4 contributions not repaid to the Fund, together with regular  
5 interest from the date of withdrawal to the date of repayment.  
6 In no case shall any member be given credit for service  
7 rendered prior to the date he withdrew his aggregate  
8 contributions until he or she repays to the member's deposit  
9 account all amounts due the account by such member.

10 (b) Refund of member's contributions.--

11 1. Should any member cease to be employed by the City  
12 as a police officer and not be entitled to a pension payable  
13 from the Fund, upon application to and approval by the Board,  
14 he or she shall be paid the aggregate contributions standing  
15 to his or her credit in the Fund, without interest, less any  
16 benefits paid to him or her. In accordance with paragraph  
17 (2)(q), a member who has ceased to be employed by the City as  
18 a police officer may elect to voluntarily leave his or her  
19 contributions in the member's deposit account for a period of  
20 up to 5 years, pending the possibility of being rehired by the  
21 Department. If the member is not reemployed at the expiration  
22 of 5 years following the date the member ceased to be employed  
23 by the City as a police officer, all contributions remaining  
24 in the member's deposit account shall be refunded without  
25 interest.

26 2. Upon the death of a member, if no pension becomes  
27 payable on account of his or her death, the aggregate  
28 contributions standing to the member's credit in the Fund at  
29 the time of death shall be paid to his or her designated  
30 beneficiary. If there be no such designated person surviving  
31



1 the member, his or her aggregate contributions shall be paid  
2 to his or her estate in accordance with subsection (17).

3 3. Payments of refunds of a member's aggregate  
4 contributions, as provided in this paragraph, may be made in  
5 monthly installments according to such rules and regulations  
6 as the Board of Trustees shall from time to time adopt.

7 (20) Sources of revenue.--

8 (a) Contributions credited to Fund.--The contributions  
9 to be credited to the Fund shall consist of, but shall not be  
10 limited to, the following sources of revenue:

11 1. Taxes of insurance companies.--The moneys returned  
12 to the City as provided by chapter 185, Florida Statutes,  
13 shall be used to fund the share account benefit described in  
14 subsection (11). The City shall not opt out of participation  
15 in chapter 185, Florida Statutes, or any similar statutory  
16 enactment unless exigent circumstances exist, such as the  
17 bankruptcy of the City or changes or amendments to the statute  
18 regarding extra benefits. If any statutory changes are made by  
19 the Legislature, the City and the Board shall renegotiate the  
20 impact of such changes, if necessary.

21 2. City contribution.--The City shall contribute to  
22 the Fund annually an amount which, together with the  
23 contributions from the members and the amount derived from the  
24 premium tax provided in chapter 185, Florida Statutes, and  
25 other income sources as authorized by law, shall be sufficient  
26 to meet the normal cost of the Fund and to fund the actuarial  
27 deficiency over a period of not more than 40 years, provided  
28 that the net increase, if any, in unfunded liability of the  
29 Fund arising from significant amendments or other changes  
30 shall be amortized within 30 plan years.

31

- 1           3. Member contributions.--As provided in subsection  
2 (19).
- 3           4. Gifts, etc.--All gifts, bequests, and devises when  
4 donated to the Fund.
- 5           5. Interest from deposits.--All accretions to the Fund  
6 by way of interest on bank deposits or otherwise.
- 7           6. Other sources.--All other sources of income now or  
8 hereafter authorized by law for the augmentation of the Fund.
- 9           (b) Actuarial valuations.--The Fund shall be  
10 actuarially evaluated at least once in each 3-year period.
- 11           (21) Investments.--
- 12           (a) The Board shall have the power and authority to  
13 invest and reinvest the moneys of the Fund and to hold,  
14 purchase, sell, assign, transfer, and dispose of any  
15 securities and investments held in the Fund, including the  
16 power and authority to employ counseling or investment  
17 management services. The aim of the investment policies shall  
18 be to preserve the integrity and security of Fund principal,  
19 to maintain a balanced investment portfolio, to maintain and  
20 enhance the value of the Fund principal, and to secure the  
21 maximum total return on investments that is consonant with  
22 safety of principal, provided that such investments and  
23 reinvestments shall be limited to the following:
- 24           1. Direct obligations of the United States Government  
25 or any agency thereof and any other evidences of indebtedness  
26 which are fully guaranteed by the United States Government or  
27 any agency thereof for the payments of principal and interest.
- 28           2. Direct obligations of the State of Florida.
- 29           3. Debt securities, preferred and common stocks and  
30 mutual fund shares subject to limitations set forth in this  
31 section.

1           4. Savings and loans associations, to the extent that  
2 deposits are guaranteed by the United States Government or any  
3 agency thereof.

4  
5 Purchases of securities may include bonds or other evidence of  
6 indebtedness, preferred stocks, and common stocks. Operations  
7 shall be conducted on the basis of a balanced portfolio, the  
8 total thereof invested in preferred stocks shall not aggregate  
9 more than 5 percent, and the total amount thereof invested in  
10 common stocks and mutual funds shall not aggregate more than  
11 70 percent of the Fund. Percentages shall be based on market  
12 value at the end of each reporting period (September 30).

13 Investment experience producing a market value percent  
14 exceeding the stated limit does not arbitrarily mean assets  
15 are to be liquidated to satisfy the limit.

16           (b) Maximum uninvested cash; minimum investment  
17 standards.--No more than 10 percent of the assets of the Fund  
18 shall be held in cash or in noninterest-bearing deposits. The  
19 following minimum investment standards shall govern the  
20 eligibility for the purchase of securities:

21           1. All corporate and association securities and mutual  
22 funds shall be issued by a corporation or other legal person  
23 incorporated or otherwise organized within the United States  
24 and domiciled therein except as otherwise permitted by section  
25 185.06, Florida Statutes.

26           2. Not more than 10 percent of the total fund  
27 principal at market value may be invested in any issuing  
28 company, other than United States Government or United States  
29 Government agency obligations.

30           3. All bonds, stocks, or other evidence of  
31 indebtedness shall be issued or guaranteed by a corporation

1 organized under the laws of the United States, any state or  
2 organized territory of the United States, or the District of  
3 Columbia, provided that the corporation is listed on any one  
4 or more of the recognized national stock exchanges and, with  
5 regard to bonds only, holds a rating in one of the three  
6 highest classifications by a major rating service. Said bonds  
7 and preferred stocks that are convertible into common stocks  
8 shall be considered common stocks, and the purchase of same  
9 shall be limited by the provisions of subparagraph (a)5.

10 4. The Board shall be required to engage the services  
11 of professional investment counsel to assist and advise the  
12 Trustees in the performance of their duties.

13 (c) Restricted use of assets.--The assets of the  
14 Police Pension Fund shall be used only for the payment of  
15 benefits and other disbursements authorized by this act and  
16 shall be used for no other purpose.

17 (d) Performance evaluation and manager selection.--At  
18 least once every 3 years, the Board of Trustees shall retain  
19 an independent consultant professionally qualified to evaluate  
20 the performance of its professional money manager or  
21 investment counsel. The independent consultant shall make  
22 recommendations to the Board of Trustees regarding the  
23 selection of money managers for the next investment term.  
24 These recommendations shall be considered by the Board of  
25 Trustees at its next regularly scheduled meeting. The date,  
26 time, place, and subject of this meeting shall be advertised  
27 in a newspaper of general circulation in the municipality at  
28 least 10 days prior to the date of the hearing.

29 (e) Administrative expenses.--The administrative  
30 expenses of the Fund shall be paid by the Fund.

31

1       (22) Existing benefits continued.--This act, and any  
2 amendments hereto, shall not be construed to increase or  
3 decrease the benefits payable to, or on account of, any member  
4 who retired or died prior to October 1, 1987.

5       (23) Assignments prohibited.--The pensions or other  
6 benefits accrued or accruing to any person under the  
7 provisions of this act and the accumulated contributions and  
8 the cash securities in the Fund created under this act shall  
9 not be subject to execution or attachment or to any legal  
10 process whatsoever and shall be unassignable. However,  
11 pursuant to a court support order, the trustees may direct  
12 that retirement benefits be paid for alimony or child support  
13 in accordance with rules and regulations adopted by the Board  
14 of Trustees.

15       (24) Subrogation rights; loss of pension rights.--

16       (a) In the event a person becomes entitled to a  
17 pension or other benefits payable from the Fund as a result of  
18 an accident or injury caused by the act of a third party, the  
19 City shall be subrogated to the rights of the said person  
20 against such third person to the extent of the benefits which  
21 the City pays or becomes liable to pay hereunder.

22       (b) No person shall be entitled to a pension under  
23 this act who is convicted of a specified offense as provided  
24 in section 112.3173, Florida Statutes.

25       (25) Ordinances applicable.--All ordinances of the  
26 City applicable to chapter 185, Florida Statutes, are hereby  
27 made applicable to this act with equal force and effect. No  
28 proposed change or amendment to this act shall be adopted  
29 without the approval required by section 185.35(2), Florida  
30 Statutes.

31       (26) Review procedures.--

1       (a) The applicant for benefits under this act may,  
2 within 20 days after being informed of the denial of his or  
3 her request for pension benefits, appeal said denial by filing  
4 a reply to the proposed order with the pension's coordinator.  
5 If no appeal is filed within the time period specified, then  
6 the proposed order shall be final.

7       (b) The Board of Trustees shall hold a hearing within  
8 45 days after the receipt of the appeal. Written notice of  
9 said hearing shall be sent by certified mail to the applicant  
10 10 days prior to the hearing, at the address listed on the  
11 application.

12       (c) The procedures at the hearing shall be as follows:

13       1. All parties shall have an opportunity to respond,  
14 to present physical and testimonial evidence and argument on  
15 all issues involved, to conduct cross-examination, to submit  
16 rebuttal evidence, and to be represented by counsel. Medical  
17 reports and depositions may be accepted in lieu of live  
18 testimony, at the Board's discretion.

19       2. All witnesses shall be sworn.

20       3. The applicant and the Board shall have an  
21 opportunity to question all witnesses.

22       4. Formal rules of evidence and formal rules of civil  
23 procedure shall not apply. The proceedings shall comply with  
24 the essential requirements of due process and law.

25       5. The record in a case governed by this subsection  
26 shall consist only of:

27       a. A tape recording of the hearing, to be taped and  
28 maintained as part of the official files of the Board of  
29 Trustees by the pension's secretary.

30       b. Evidence received or considered.

31

1           c. All notices, pleadings, motions, and intermediate  
2 rulings.  
3           d. Any decisions, opinions, proposed or recommended  
4 orders, or reports by the Board of Trustees.  
5           (d) Within 5 days after the hearing, the Board shall  
6 take one of the following actions:  
7           1. Grant the pension benefits by overturning the  
8 proposed order by majority vote.  
9           2. Deny the benefits and approve the proposed order as  
10 a final order, after making any changes in the order that the  
11 Board feels is necessary.  
12           (e) Findings of fact by the Board shall be based on  
13 competent, substantial evidence on the record.  
14           (f) Within 20 calendar days after rendering its order,  
15 the Board of Trustees shall send by certified mail a copy of  
16 said order to the applicant.  
17           (g) The applicant may seek review of the order of the  
18 Board of Trustees by filing a petition for writ of certiorari  
19 with the circuit court within 30 days.  
20           (27) Lump sum payment of small retirement  
21 income.--Notwithstanding any provision of the Fund to the  
22 contrary, if the monthly retirement income payable to any  
23 person entitled to benefits hereunder is less than \$30 or if  
24 the single sum value of the accrued retirement income is less  
25 than \$5,000 as of the date of retirement or termination of  
26 service, whichever is applicable, the Board of Trustees, in  
27 the exercise of its discretion, may specify that the actuarial  
28 equivalent of such retirement income be paid in lump sum.  
29           (28) Pickup of member contributions.--Effective the  
30 first day of the first full payroll period of the first  
31 calendar quarter following receipt of a favorable

1 determination letter from the Internal Revenue Service, the  
2 City shall pick up the member contribution required by this  
3 section. The contributions so picked up shall be treated as  
4 employer contributions in determining tax treatment under the  
5 United States Internal Revenue Code. The City shall pick up  
6 the member contributions from funds established and available  
7 for salaries, which funds would otherwise have been designated  
8 as member contributions and paid to the Fund. Member  
9 contributions picked up by the City pursuant to this  
10 subsection shall be treated for purposes of making a refund of  
11 members' contributions, and for all other purposes of this and  
12 other laws, in the same manner and to the same extent as  
13 member contributions made prior to the effective date of this  
14 section. The intent of this section is to comply with s.  
15 414(H)(2) of the Internal Revenue Code.

16 (29) Internal Revenue Code limits.--

17 (a) In no event may a member's annual benefit exceed  
18 \$120,000 (adjusted for cost of living in accordance with s.  
19 415(d) of the Internal Revenue Code).

20 (b) If a member has less than 10 years of service with  
21 the City, the applicable limitation in paragraph (a) shall be  
22 reduced by multiplying such limitation by a fraction, not to  
23 exceed 1. The numerator of such fraction shall be the number  
24 of years, or part thereof, of service with the City; the  
25 denominator shall be 10 years.

26 (c) For purposes of this subsection, "annual benefit"  
27 means a benefit payable annually in the form of a straight  
28 life annuity with no ancillary incidental benefits and with no  
29 member or rollover contributions. To the extent that ancillary  
30 benefits are provided, the limits set forth in paragraph (a)  
31 shall be reduced actuarially, using an interest rate



1 assumption equal to the greater of 5 percent or the rate being  
2 used for actuarial equivalence, to reflect such ancillary  
3 benefits.

4 (d) If distribution of retirement benefits begins  
5 before age 62, the dollar limitation as described in paragraph  
6 (a) shall be reduced, using an interest rate assumption equal  
7 to the greater of 5 percent or the interest rate used for  
8 actuarial equivalence; however, retirement benefits shall not  
9 be reduced below \$75,000 if payment of benefits begins at or  
10 after age 55 and not below the actuarial equivalent of \$75,000  
11 if payment of benefits begins before age 55. For a member with  
12 15 or more years of service with the City, the reductions  
13 described above shall not reduce such member's benefit below  
14 \$50,000 (adjusted for cost of living in accordance with s.  
15 415(d) of the Internal Revenue Code, but only for the year in  
16 which such adjustment is effective). If retirement benefits  
17 begin after age 65, the dollar limitation of paragraph (a)  
18 shall be increased actuarially by using an interest assumption  
19 equal to the lesser of 5 percent or the rate used for  
20 actuarial equivalence.

21 (e) Compensation in excess of limitations set forth in  
22 s. 401(a)(17) of the Internal Revenue Code shall be  
23 disregarded. The limitation on compensation for an eligible  
24 employee shall not be less than the amount that was allowed to  
25 be taken into account hereunder as in effect on July 1, 1993.  
26 "Eligible employee" is an individual who was a member before  
27 the first plan year beginning after December 31, 1995.

28 (30) Required distributions.--

29 (a) In accordance with s. 401(a)(9) of the Internal  
30 Revenue Code, all benefits under this plan shall be  
31 distributed, beginning not later than the required beginning

1 date set forth below, over a period not extending beyond the  
2 life expectancy of the police officers or the life expectancy  
3 of the police officer and a beneficiary designated in  
4 accordance with paragraph (9)(e).

5 (b) Any and all benefit payments shall begin by the  
6 later of:

7 1. April 1 of the calendar year following the calendar  
8 year of the member's retirement date; or

9 2. April 1 of the calendar year following the calendar  
10 year in which the member attains age 70-1/2.

11 (c) If an employee dies before his or her entire  
12 vested interest has been distributed to him or her, the  
13 remaining portion of such interest shall be distributed at  
14 least as rapidly as provided for under subsection (17).

15 (31)(a) Rollovers from qualified plans.--A member may  
16 roll over all or a part of his or her interest in another  
17 qualified plan to the Fund, provided all of the following  
18 requirements are met:

19 1. Some or all of the amount distributed from the  
20 other plan is rolled over to this plan no later than the 60th  
21 day after distribution was made from the Plan or, if  
22 distributions are made in installments, no later than the 60th  
23 day after the last distribution was made.

24 2. The amount rolled over to this Fund does not  
25 include any amount contributed by the member to the Plan on a  
26 posttax basis.

27 3. The rollover is made in cash.

28 4. The member certifies that the distribution is  
29 eligible for a rollover.

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1           5. Any amount which the Trustees accept as a rollover  
2 to this Fund shall, along with any earnings allocated to them,  
3 be fully vested at all times.

4  
5 The rollover may also be made to this Plan from an individual  
6 retirement account qualified under s. 408 of the Internal  
7 Revenue Code when the individual retirement account was merely  
8 used as a conduit for funds from another qualified plan and  
9 the rollover is made in accordance with the rules provided in  
10 subparagraphs 1.-5. Amounts rolled over may be segregated from  
11 other Fund assets. The trustees shall separately account for  
12 gains, losses, and administrative expenses of these rollovers  
13 as provided for in subsections (11) and (13). In addition, the  
14 Fund may accept the direct transfer of a member's benefits  
15 from another qualified retirement plan. The Fund shall account  
16 for direct transfers in the same manner as a rollover and  
17 shall obtain certification from the member that the amounts  
18 are eligible for a rollover or direct transfer to this Fund.

19           (b) Transfer of accumulated leave.--

20           1. Members eligible to receive accumulated sick leave,  
21 accumulated vacation leave, or any other accumulated leave  
22 payable upon separation shall have the leave transferred to  
23 the Fund up to the amount permitted by law. Any additional  
24 amounts shall be paid directly to the member. Members on whose  
25 behalf leave has been transferred may elect one of the  
26 following options within 30 days after separation; however,  
27 members failing to elect a distribution option within 30 days  
28 after separation shall be deemed to have elected option b.  
29 below:

30           a. To receive a lump sum equal to the transferred  
31 leave balance;

1           b. To maintain the entire amount of the transferred  
2 leave balance in the DROP or share account; or  
3           c. To purchase additional service credit as may be  
4 permitted by the Internal Revenue Code. If the leave balance  
5 exceeds the cost of the service credit purchased, the balance  
6 shall be paid to the member in a lump sum.  
7           2. If a member on whose behalf the City makes a  
8 transferred leave balance to the Plan dies after retirement or  
9 other separation, but before making an election as provided or  
10 after making an election but before any distribution is made,  
11 the election option shall be void. In such an event, any  
12 person who would have received a death benefit had the member  
13 died in service immediately prior to the date of retirement or  
14 other separation shall be entitled to receive an amount equal  
15 to the transferred leave balance in a lump sum. In the case of  
16 a surviving spouse or former spouse, an election may be made  
17 to transfer the leave balance to an eligible retirement plan  
18 in lieu of the lump sum payment. Failure to make such an  
19 election by the surviving spouse or former spouse within 60  
20 days after the member's death shall be deemed an election to  
21 receive the lump sum payment.  
22           3. The Board, by rule, shall prescribe the method for  
23 implementing the provisions of this paragraph.  
24           (32) Rollover distributions.--  
25           (a) This subsection applies to distributions made on  
26 or after January 1, 1993. Notwithstanding any provision of the  
27 Plan to the contrary that would otherwise limit a  
28 distributee's election under this subsection, a distributee  
29 may elect, at the time and in the manner prescribed by the  
30 Board of Trustees, to have any portion of an eligible rollover  
31

1 distribution paid directly to an eligible retirement plan  
2 specified by the distributee in a direct rollover.  
3 (b) Definitions.--  
4 1. "Eligible rollover distribution" is any  
5 distribution of all or any portion of the balance to the  
6 credit of the distributee, except that an eligible rollover  
7 does not include any distribution that is one of a series of  
8 substantially equal periodic payments (not less frequently  
9 than annually) made for the life (or life expectancy) of the  
10 distributee or the joint lives (or joint life expectancies) of  
11 the distributee and the distributee's designated beneficiary,  
12 or for a specified period of 10 years or more; any  
13 distribution to the extent such distribution is required under  
14 s. 401(a)(9) of the Internal Revenue Code; and the portion of  
15 any distribution that is not includable in gross income.  
16 2. "Eligible retirement plan" is an individual  
17 retirement account described in s. 408(a) of the Internal  
18 Revenue Code, an individual retirement annuity described in s.  
19 408(b) of the Internal Revenue Code, an annuity plan described  
20 in s. 403(a) of the Internal Revenue Code, or a qualified  
21 trust described in s. 401(a) of the Internal Revenue Code that  
22 accepts the distributee's eligible rollover distribution.  
23 However, in the case of an eligible rollover distribution to  
24 the surviving spouse, an "eligible retirement plan" is an  
25 individual retirement account or individual retirement  
26 annuity.  
27 3. "Distributee" includes an employee or former  
28 employee. In addition, the employee's or former employee's  
29 surviving spouse and the employee's or former employee's  
30 spouse or former spouse who is entitled to payment for alimony  
31 and child support under a domestic relations order determined

1 to be qualified by this Fund are distributees with regard to  
2 the interest of the spouse or former spouse.

3 4. "Direct rollover" is a payment by the Plan to the  
4 eligible retirement plan specified by the distributee.

5 (33) Miscellaneous requirements.--

6 (a) No benefit of any kind shall be payable from the  
7 assets of the Pension Fund unless specifically provided for in  
8 this act; however, the Board of Trustees, with the approval of  
9 the City, may grant ad hoc benefits after a public hearing and  
10 acceptance by the state of an actuarial impact statement  
11 submitted pursuant to part VII of chapter 112, Florida  
12 Statutes.

13 (b) The City may not offset any part of its required  
14 annual contribution by the Fund's assets except as determined  
15 in an actuarial valuation, the report for which is determined  
16 to be state accepted pursuant to part VII of chapter 112,  
17 Florida Statutes.

18 (c) All provisions of this act and operations of the  
19 Pension Fund shall be carried out in compliance with part VII  
20 of chapter 112, Florida Statutes.

21 (d)1. It is unlawful for a person to willfully and  
22 knowingly make, or cause to be made, or to assist, conspire  
23 with, or urge another to make, or cause to be made, any false,  
24 fraudulent, or misleading oral or written statement or to  
25 withhold or conceal material information to obtain any benefit  
26 under this Plan.

27 2.a. A person who violates subparagraph 1. commits a  
28 misdemeanor of the first degree, punishable as provided in  
29 section 775.082 or section 775.083, Florida Statutes.

30 b. In addition to any applicable criminal penalty,  
31 upon conviction for a violation described in subparagraph 1.,

1 a participant or beneficiary of this Plan may, in the  
2 discretion of the Board of Trustees, be required to forfeit  
3 the right to receive any or all benefits to which the person  
4 would otherwise be entitled under this Plan. For purposes of  
5 this sub-subparagraph, "conviction" means a determination of  
6 guilt that is the result of a plea or trial, regardless of  
7 whether adjudication is withheld.

8 (34) Actuarial assumptions.--The following actuarial  
9 assumptions shall be used for all purposes in connection with  
10 this Fund, effective October 1, 1999:

11 (a) The assumed investment rate of return shall be  
12 8.25 percent.

13 (b) The period for amortizing current, future, and  
14 past actuarial gains or losses shall be 20 years.

15  
16 The consequences of the change in assumptions in paragraphs  
17 (a) and (b) shall first take effect during the October 1,  
18 1999-September 30, 2000, fiscal year of the City of West Palm  
19 Beach. To the extent that effective dates or legislative  
20 delays might influence the direct application to the October  
21 1, 1999-September 30, 2000, fiscal year of the actuarial cost  
22 estimate dated March 24, 2000, there shall be a minimum  
23 contribution reserve established by the Pension Fund for the  
24 City of West Palm Beach. The reserve shall be credited with  
25 any amounts contributed to the Pension Fund by the City of  
26 West Palm Beach during the October 1, 1999-September 30, 2000,  
27 fiscal year in excess of \$1,462,965. This amount has been  
28 determined by combining the contribution requirement from the  
29 September 30, 1998, actuarial valuation report dated May 7,  
30 1999, with the subsequent actuarial cost estimate dated March  
31 24, 2000, both of which were prepared by the Fund's actuary.

1           Section 2. All special laws and parts of special laws,  
2 ordinances, or regulations insofar as they are in conflict or  
3 inconsistent with the provisions of this act be and the same  
4 are repealed.

5           Section 3. This act shall take effect upon becoming a  
6 law.

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