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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 next term; otherwise, the
25 vacancy shall be filled for the unexpired portion of the term,
26 as provided in subparagraph (a)2. In the event a trustee
27 provided for in subparagraph (a)1. or subparagraph (a)3. shall
28 resign, be removed, or become ineligible to serve as a
29 trustee, the Board shall, by resolution, declare the office of
30 trustee vacated as of the date of adoption of said resolution.
31 The trustee's successor for the unexpired portion of said

1 trustee's term shall be chosen in the same manner as an
2 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.

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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 of final average salary multiplied
3 by 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

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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 of the Treasury. 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

17
18 to January 1 of the year in which the adjustment is being
19 made.

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

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

29 (11) Chapter 185 share accounts.--
30
31

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

4 (b) Share account funding.--

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

8 2. Forfeitures.--In addition, any forfeitures as
9 provided in paragraph (e) shall be credited to the individual
10 member accounts in accordance with the formula set forth in
11 paragraph (c).

12 (c) Annual allocation of accounts.--

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

20 2. At the end of each fiscal year (September 30), each
21 individual member account shall be adjusted to reflect the
22 earnings or losses resulting from investments, as well as
23 reflecting the costs, fees, and expenses of administration.

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

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

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

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

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

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

27 a. A nonduty disability pension as provided in
28 paragraph (14)(a); or

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

31

1 3. The member has any credited service and is eligible
2 to receive either:

3 a. A duty disability pension as provided in subsection
4 (15); or

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

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

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

20 1. Over 3 years in annual installments; or

21 2. In monthly installments over the lifetime of the
22 member or until the entire balance is exhausted. The monthly
23 amount paid shall be determined by the Fund's actuary in
24 accordance with selections made by the member on a form
25 provided by the Board of Trustees.

26 (g) Death of member.--If a member dies and is eligible
27 for benefits from the individual member account, the entire
28 balance of the individual member account shall be converted to
29 the name of the beneficiary designated in accordance with
30 paragraph (9)(e). The entire balance shall be paid out in a
31 lump sum to the beneficiary, at the discretion of the

1 beneficiary. If the designated beneficiary is the surviving
2 spouse, the account may remain with the Fund until the latest
3 period specified under subsection (30). These individual
4 accounts shall not be eligible for any further shares of the
5 Chapter 185 moneys but shall be credited with interest. If a
6 member fails to designate a beneficiary, or if the beneficiary
7 predeceases the member, the entire balance shall be converted,
8 in the following order, to the name or names of:

9 1. The member's surviving children on a pro rata
10 basis;

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

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

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

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

26 (12) Supplemental pension distribution.--

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

30 1. For employees who retired prior to October 1, 1999,
31 the amount of the distribution shall be equal to the actuarial

1 present value of future pension payments to current
2 pensioners, multiplied by the positive difference, if any,
3 between the rate of investment return (not to exceed 9
4 percent) and 7 percent, plus one-half of any investment
5 earnings over 9 percent.

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

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

21 (b) The actuary shall determine whether there may be a
22 supplemental pension distribution based on the following
23 factors:

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

30 2. The actuary for the Pension Fund shall, as of
31 September 30, determine the actuarial present value of future

1 pension payments to current pensioners. The actuarial present
2 values shall be calculated using an interest rate of 7 percent
3 per year compounded annually, and a mortality table approved
4 by the Board of Trustees and as used in the most recent
5 actuarial report submitted pursuant to part VII of chapter
6 112, Florida Statutes.

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

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

29 (c) If the actuary determines there may be a
30 supplemental distribution, the Board of Trustees shall
31 authorize a "supplemental pension distribution," unless the

1 administrative expenses of distribution exceed the amount
2 available for the distribution.

3 (d) Eligible persons are:

4 1. Pensioners.

5 2. Surviving spouses.

6 3. Surviving dependent children.

7 4. Pensioners' estates.

8 (e) The supplemental pension distribution shall be
9 allocated among eligible persons based upon years of service
10 in the proportion that the eligible person's years of service
11 bear to the aggregate amount of years of service of all
12 eligible persons. Allocations for surviving spouses and
13 surviving dependent children who are eligible to receive
14 supplemental pension distributions shall be 66-2/3 percent of
15 the years of service earned by the pensioner. Maximum service
16 credits shall be 25 years. Allocations for duty-disability
17 pensioners shall be based upon 25 years of service.

18 Allocations for duty-death beneficiaries (surviving spouse and
19 surviving dependent children) shall be based upon 66-2/3
20 percent of 25 years of service.

21 (f) The supplemental pension distribution shall be
22 made as of April 1, 1992, and each April 1 thereafter. Each
23 eligible person shall be paid his or her allocated portion
24 from the preceding September 30. Eligible persons retired for
25 less than 1 year are entitled to a pro rata share of their
26 supplemental pension distribution based on the number of
27 months retired. A pensioner's estate is entitled to a pro rata
28 share of the deceased retirant's supplemental pension
29 distribution based on the number of months that the deceased
30 retirant received a pension during the year ending the
31 September 30 prior to the retirant's death.

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

1 or her option, extend his or her participation in the DROP
2 beyond 5 years or 30 years of total service. For purposes of
3 this subsection, "Police Chief" means a member who has been
4 promoted from police officer through the ranks of the
5 Department to the position of Police Chief. Any such Police
6 Chief shall not participate in the DROP beyond the attainment
7 of 33 years of service, and the total years of participation
8 in the DROP shall not exceed 8 years.

9 (b) Amounts payable upon election to participate in
10 DROP.--

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

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

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

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

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

- 1 b. Payments shall be made in either:
- 2 (I) Lump sum.--The entire account balance shall be
- 3 paid to the retirant upon approval of the Board of Trustees.
- 4 (II) Installments.--The account balance shall be paid
- 5 out to the retirant in three equal payments paid over 3 years,
- 6 the first payment to be made upon approval of the Board of
- 7 Trustees.
- 8 (III) Annuity.--The account balance shall be paid out
- 9 in monthly installments over the lifetime of the member or
- 10 until the entire balance is exhausted. Monthly amount paid
- 11 shall be determined by the Fund's actuary in accordance with
- 12 selections made by the member on a form provided by the Board
- 13 of Trustees.
- 14 c. Any form of payment selected by a police officer
- 15 must comply with the minimum distribution requirements of s.
- 16 401(A)(9) of the Internal Revenue Code and is subject to the
- 17 requirements of subsection (29) of this act; e.g., payments
- 18 must commence by age 70-1/2.
- 19 d. The beneficiary of the DROP participant who dies
- 20 before payments from the DROP begin shall have the same right
- 21 as the participant in accordance with subsection (17).
- 22 (c) Loans from the DROP.--
- 23 1. Availability of loans.--
- 24 a. Loans are available to members only after
- 25 termination of employment, provided the member had
- 26 participated in the DROP for a period of 12 months.
- 27 b. Loans may only be made from a member's own account.
- 28 c. There may be no more than one loan at a time.
- 29 2. Amount of loan.--
- 30 a. Loans may be made up to a maximum of 50 percent of
- 31 account balance.

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. A 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.

25
26 In any of the above cases, the Board, in its discretion, may
27 direct that the actuarial value of the monthly benefit be paid
28 as a lump sum.

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

1 1. The surviving spouse of the retirant shall receive
2 a pension of two-thirds of the retirant's pension, provided
3 that the retirant was receiving a pension under paragraph
4 (9)(a). Upon the surviving spouse's death, the pension shall
5 terminate.

6 2. In the event the deceased retirant does not leave a
7 surviving spouse eligible to receive a pension, or if the
8 surviving spouse dies and he or she leaves an unmarried child
9 or children under age 18, each child shall receive a pension
10 of an equal share of two-thirds of the deceased retirant's
11 pension. Upon any child's adoption, marriage, death, or
12 attainment of age 18, the child's pension shall terminate and
13 it shall be apportioned to the pensions payable to the
14 deceased retirant's remaining eligible children under age 18.
15 In no case shall the pension payable to any such child exceed
16 20 percent of the deceased retirant's pension, or be less than
17 \$15 per month.

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

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

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 four
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 \$160,000 (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.

30
31

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 A 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 or an Internal Revenue
16 Code section 457 plan. The Fund shall account for direct
17 transfers in the same manner as a rollover and shall obtain
18 certification from the member that the amounts are eligible
19 for a rollover or direct transfer to this Fund.

20 (b) Transfer of accumulated leave.--

21 1. Members eligible to receive accumulated sick leave,
22 accumulated vacation leave, or any other accumulated leave
23 payable upon separation shall have the leave transferred to
24 the Fund up to the amount permitted by law. Any additional
25 amounts shall be paid directly to the member. Members on whose
26 behalf leave has been transferred shall maintain the entire
27 amount of the transferred leave balance in the DROP or Share
28 Account.

29 2. If a member on whose behalf the City makes a
30 transferred leave balance to the Plan dies after retirement or
31 other separation, then any person who would have received a

1 death benefit had the member died in service immediately prior
2 to the date of retirement or other separation shall be
3 entitled to receive an amount equal to the transferred leave
4 balance in a lump sum. In the case of a surviving spouse or
5 former spouse, an election may be made to transfer the leave
6 balance to an eligible retirement plan in lieu of the lump sum
7 payment. Failure to make such an election by the surviving
8 spouse or former spouse within 60 days after the member's
9 death shall be deemed an election to receive the lump sum
10 payment.

11 3. The Board, by rule, shall prescribe the method for
12 implementing the provisions of this paragraph.

13 4. Amounts transferred under this section shall remain
14 invested in the Fund for a period of not less than 1 year.

15 (32) Rollover distributions.--

16 (a) This subsection applies to distributions made on
17 or after January 1, 1993. Notwithstanding any provision of the
18 Plan to the contrary that would otherwise limit a
19 distributee's election under this subsection, a distributee
20 may elect, at the time and in the manner prescribed by the
21 Board of Trustees, to have any portion of an eligible rollover
22 distribution paid directly to an eligible retirement plan
23 specified by the distributee in a direct rollover.

24 (b) Definitions.--

25 1. "Eligible rollover distribution" is any
26 distribution of all or any portion of the balance to the
27 credit of the distributee, except that an eligible rollover
28 does not include any distribution that is one of a series of
29 substantially equal periodic payments (not less frequently
30 than annually) made for the life (or life expectancy) of the
31 distributee or the joint lives (or joint life expectancies) of

1 the distributee and the distributee's designated beneficiary,
2 or for a specified period of 10 years or more; any
3 distribution to the extent such distribution is required under
4 s. 401(a)(9) of the Internal Revenue Code; and the portion of
5 any distribution that is not includable in gross income.

6 2. "Eligible retirement plan" is an individual
7 retirement account described in s. 408(a) of the Internal
8 Revenue Code, an individual retirement annuity described in s.
9 408(b) of the Internal Revenue Code, an annuity plan described
10 in s. 403(a) of the Internal Revenue Code, or a qualified
11 trust described in s. 401(a) of the Internal Revenue Code that
12 accepts the distributee's eligible rollover distribution.
13 However, in the case of an eligible rollover distribution to
14 the surviving spouse, an "eligible retirement plan" is an
15 individual retirement account or individual retirement
16 annuity.

17 3. "Distributee" includes an employee or former
18 employee. In addition, the employee's or former employee's
19 surviving spouse and the employee's or former employee's
20 spouse or former spouse who is entitled to payment for alimony
21 and child support under a domestic relations order determined
22 to be qualified by this Fund are distributees with regard to
23 the interest of the spouse or former spouse.

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

26 (33) Miscellaneous requirements.--

27 (a) No benefit of any kind shall be payable from the
28 assets of the Pension Fund unless specifically provided for in
29 this act; however, the Board of Trustees, with the approval of
30 the City, may grant ad hoc benefits after a public hearing and
31 acceptance by the state of an actuarial impact statement

1 submitted pursuant to part VII of chapter 112, Florida
2 Statutes.

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

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

11 (d)1. It is unlawful for a person to willfully and
12 knowingly make, or cause to be made, or to assist, conspire
13 with, or urge another to make, or cause to be made, any false,
14 fraudulent, or misleading oral or written statement or to
15 withhold or conceal material information to obtain any benefit
16 under this Plan.

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

20 b. In addition to any applicable criminal penalty,
21 upon conviction for a violation described in subparagraph 1.,
22 a participant or beneficiary of this Plan may, in the
23 discretion of the Board of Trustees, be required to forfeit
24 the right to receive any or all benefits to which the person
25 would otherwise be entitled under this Plan. For purposes of
26 this sub-subparagraph, "conviction" means a determination of
27 guilt that is the result of a plea or trial, regardless of
28 whether adjudication is withheld.

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

1 (a) The assumed investment rate of return shall be
2 8.25 percent.

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

5
6 The consequences of the change in assumptions in paragraphs
7 (a) and (b) shall first take effect during the October 1,
8 1999-September 30, 2000, fiscal year of the City of West Palm
9 Beach. To the extent that effective dates or legislative
10 delays might influence the direct application to the October
11 1, 1999-September 30, 2000, fiscal year of the actuarial cost
12 estimate dated March 24, 2000, there shall be a minimum
13 contribution reserve established by the Pension Fund for the
14 City of West Palm Beach. The reserve shall be credited with
15 any amounts contributed to the Pension Fund by the City of
16 West Palm Beach during the October 1, 1999-September 30, 2000,
17 fiscal year in excess of \$1,462,965. This amount has been
18 determined by combining the contribution requirement from the
19 September 30, 1998, actuarial valuation report dated May 7,
20 1999, with the subsequent actuarial cost estimate dated March
21 24, 2000, both of which were prepared by the Fund's actuary.

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

26 Section 3. This act shall take effect upon becoming a
27 law.

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