

By Representative Atwater

1 A bill to be entitled
2 An act relating to the City of West Palm Beach,
3 Palm Beach County, relating to the West Palm
4 Beach Firefighters Pension Fund; amending and
5 readopting section 17 of chapter 24981, Laws of
6 Florida, 1947, as amended; providing for the
7 creation of the fund; providing for
8 professional and clerical services; providing
9 for sources of revenue; providing for custodian
10 of funds; providing for service pensions;
11 providing for disability pensions, medical
12 examinations, and return to work; providing for
13 beneficiary benefits; providing that acceptance
14 of pension is no bar to subsequent work;
15 providing that pension is not assignable or
16 subject to garnishment; providing for transfer
17 of funds; providing for ordinances applicable;
18 providing for existing benefits to continue;
19 providing for workers' compensation offset;
20 providing for actuarial valuations; providing
21 for review procedures; providing for lump sum
22 payments of small retirement income; providing
23 for pickup of employee contributions; providing
24 for Internal Revenue Code limits; providing for
25 required distributions; providing for
26 miscellaneous requirements; providing for
27 rollover provisions; providing for rollovers
28 from qualified plans; providing for actuarial
29 assumptions; providing for addition of prior
30 firefighter service; repealing all laws in
31 conflict herewith; providing an effective date.

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

2
3 Section 1. Section 17 of chapter 24981, Laws of
4 Florida, 1947, as amended, is amended and readopted to read:

5 (Substantial rewording of section. See
6 ch. 93-374, Laws of Florida, as amended
7 by chapters 95-476, 96-527, 97-327,
8 99-456, and 2000-409, Laws of Florida,
9 for present text.)

10 Section 17. West Palm Beach Firefighters Pension
11 Fund.--

12 (1) Creation of fund.--There is hereby created a
13 special fund for the Fire Department of the City of West Palm
14 Beach to be known as the West Palm Beach Firefighters Pension
15 Fund. All assets of every description held in the name of the
16 West Palm Beach Firemen's Relief and Pension Fund and in the
17 name of the West Palm Beach Firefighters Pension Fund have
18 been and shall continue to be combined.

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

22 1. "Actuarial equivalent value," "actuarial
23 equivalence," or "single sum value" means the stated
24 determination using an interest rate of 8.25 percent per year
25 and the 1983 Group Annuity Mortality Table for males.

26 2. "Beneficiary" means any person who is not at
27 retirement but who is entitled to receive a benefit from the
28 West Palm Beach Firefighters Pension Fund or the West Palm
29 Beach Firemen's Relief and Pension Fund, as applicable.

30 3. "Board of Trustees" or "Board" means the Board of
31 Trustees provided for in this act.

- 1 4. "City" means the City of West Palm Beach.
2 5. "Department" means the Fire Department of the City.
3 6. "Enrolled actuary" means an actuary who is enrolled
4 under Subtitle C of Title III of the Employee Retirement
5 Income Security Act of 1974 and who is a member of the Society
6 of Actuaries or the American Academy of Actuaries.
7 7. "Final average salary" means the average of the
8 monthly salary paid a member in the 3 best years of
9 employment.
10 8. "Firefighter" means any person employed in the
11 Department who is certified as a firefighter as a condition of
12 employment in accordance with the provisions of section
13 633.35, Florida Statutes.
14 9. "Fund" or "Pension Fund" means the West Palm Beach
15 Firefighters Pension Fund or the West Palm Beach Firemen's
16 Relief and Pension Fund, as applicable.
17 10. "Member" means any person who is included in the
18 membership of the Fund in accordance with paragraph (h).
19 11. "Pension" means a monthly amount payable from the
20 Fund throughout the future life of a person, or for a limited
21 period of time, as provided in this act.
22 12. "Qualified health professional" means a person
23 duly and regularly engaged in the practice of his or her
24 profession who holds a professional degree from a university
25 or college and has had special professional training or skill
26 regarding the physical or mental condition, disability, or
27 lack thereof, upon which he or she is to present evidence to
28 the Board.
29 13. "Qualified public depository" means any bank or
30 savings association organized and existing under the laws of
31 Florida and any bank or savings association organized under

1 the laws of the United States that has its principal place of
2 business in Florida, or has a branch office which is
3 authorized under the laws of Florida or the United States to
4 receive deposits in Florida, that meets all of the
5 requirements of chapter 280, Florida Statutes, and that has
6 been designated by the Treasurer of the State of Florida as a
7 qualified public depository.

8 14. "Retirant" or "retiree" means any member who
9 retires with a pension payable from the Fund.

10 15. "Retirement" means a member's withdrawal from City
11 employment with a pension payable from the Fund.

12 16. "Salary" means:

13 a. The fixed monthly compensation paid to a
14 firefighter and shall include those items that have been
15 included as compensation in accordance with past practice.
16 However, the term shall not be construed to include lump sum
17 payments for accumulated leave.

18 b. On and after October 1, 2000, "salary" shall not be
19 determined by reference to past practice but instead shall
20 mean payments made to a firefighter by the City under the
21 following reporting names: Base Pay, Adj Base Hrs, Comp Time
22 Usd, DEL Paid, Dty Dis LOA, Emergency Leave, EMgt Admin Lv,
23 EPL Usd, FF Pl Pay, FFDegIncen, FFInspcCEIncen, FFSpOpCEIn,
24 FFSWATCEIn, FFTrnCrtIncen, Hol Usd, Holiday Pay, Longevity,
25 Lump Sum Pmt, Mgt 1 Incen Pay, Mgt 2 Incen Pay, Military Trn,
26 OTJI TmpLtDty, Paid LOA, Paid Suspension, ParMedIncen, Pay
27 Adjustment, Retroactive Pay, RetroPay Adjust, Sck Cvtd
28 Dollars, Sck Usd, Sick Pay Bnk, Step up Pay, Temp Assign, Vac
29 Usd, and FFDiveIncen. "Salary" shall not include overtime or
30 lump sum payments for accumulated leave such as accrued annual
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1 leave, accrued sick leave, earned personal leave, holiday
2 saved, or compensatory time.
3 17. "Service," "credited service," or "service credit"
4 means the total number of years, and fractional parts of
5 years, of employment of any member in the employ of the
6 Department, omitting intervening years and fractional parts of
7 years of service when the member was not employed by the City.
8 However, no member shall receive credit for years, or
9 fractional parts of years, of service for which the member has
10 withdrawn his or her contributions to the Fund, unless the
11 member repays into the Fund the contributions withdrawn, with
12 interest, within 60 months after reemployment. Further, a
13 member may voluntarily leave his or her contributions in the
14 Fund for a period of 5 years after leaving the employ of the
15 Department, pending the possibility of his or her being
16 rehired by the Department and remaining employed for a period
17 of not less than 3 years, without losing credit for the time
18 he or she has participated actively as a firefighter. If he or
19 she does not remain employed for a period of at least 3 years
20 as a firefighter with the Department upon reemployment, within
21 5 years his or her contributions shall be returned without
22 interest in accordance with paragraph (5)(i). In determining
23 the aggregate number of years of service of any member, the
24 time spent in the military service of the United States or
25 United States Merchant Marine by the member on leave of
26 absence from the Department for such reason shall be added to
27 the years of service, provided such time shall not exceed 5
28 years. Further, to receive credit for such service the member
29 must return to employment as a firefighter of the City within
30 1 year after the date of release from such active service.
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1 (b) Gender and number.--The masculine gender includes
2 the feminine, and words of the singular with respect to
3 persons shall include the plural and vice versa.

4 (c) Board of Trustees created.--There is hereby created
5 a Board of Trustees, which shall be solely responsible for
6 administering the West Palm Beach Firefighters Pension Fund
7 and the West Palm Beach Firemen's Relief and Pension Fund. The
8 Board shall be a legal entity, with the power to bring and
9 defend lawsuits of every kind, nature, and description, and
10 shall be independent of the City to the extent required to
11 accomplish the intent, requirements, and responsibilities
12 provided for in this act and applicable law. The Board shall
13 consist of five trustees, as follows:

14 1. Two legal residents of the City, who shall be
15 appointed by the City. Each resident-trustee shall serve as a
16 trustee for a period of 2 years, unless sooner replaced by the
17 City, at whose pleasure he or she shall serve, and may succeed
18 himself or herself as trustee.

19 2. Two full-time firefighters shall be elected by a
20 majority of the firefighters who are members of the Fund.
21 Elections shall be held under such reasonable rules and
22 regulations as the Board shall from time to time adopt. Each
23 member-trustee shall serve as a trustee for a period of 2
24 years, unless he or she sooner ceases to be a firefighter in
25 the employ of the Department, whereupon the members shall
26 choose a successor in the same manner as the original
27 appointment. Each member-trustee may succeed himself or
28 herself as trustee.

29 3. A fifth trustee shall be chosen by a majority of
30 the other four trustees. This fifth person's name shall be
31 submitted to the City, which shall, as a ministerial duty,

1 appoint such person to the Board as a fifth trustee. The fifth
2 person shall serve as trustee for a period of 2 years, and may
3 succeed himself or herself as trustee.

4 (d) Board vacancy; how filled.--In the event a trustee
5 provided for in subparagraph (c)2. ceases to be a firefighter
6 in the employ of the Department, such trustee shall be
7 considered to have resigned from the Board. In the event a
8 trustee provided for in subparagraph (c)2. shall resign, be
9 removed, or become ineligible to serve as a trustee, the Board
10 shall, by resolution, declare the office of trustee vacated as
11 of the date of adoption of said resolution. If such a vacancy
12 occurs in the office of trustee within 90 days of the next
13 succeeding election for trustee, the vacancy shall be filled
14 at the next regular election for the unexpired portion of the
15 term; otherwise, the vacancy shall be filled for the unexpired
16 portion of the term by the members in the same manner as an
17 original appointment. In the event a trustee provided for in
18 subparagraph (c)1. or subparagraph (c)3. 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. A successor for
22 the unexpired portion of the term shall be chosen in the same
23 manner as an original appointment.

24 (e) Board meetings; quorum; procedures.--The Board
25 shall hold meetings regularly, at least once in each quarter
26 year, and shall designate the time and place thereof. At any
27 meeting of the Board, three trustees shall constitute a
28 quorum. Each trustee shall be entitled to one vote on each
29 question before the Board and at least three concurring votes
30 shall be required for a decision by the Board at any of its
31 meetings. The Board shall adopt its own rules of procedure and

1 shall keep a record of its proceedings. All public records of
2 the Fund shall be kept and maintained as required by law. All
3 meetings of the Board shall be open to the public and shall be
4 held as required by law.

5 (f) Board chair.--The Board shall elect a chair from
6 among the trustees.

7 (g) Board secretary.--The Board shall elect a
8 secretary from among the trustees. The secretary shall keep a
9 complete minute book of the actions, proceedings, and hearings
10 of the Board.

11 (h) Membership.--All firefighters and all who hold a
12 position of firefighter in the employ of the Department shall
13 be members in the Fund. All firefighters, including the chief,
14 who were in the employ of the Department as of April 30, 1959,
15 shall be given credit for service rendered in the employ of
16 the Department prior to May 1, 1959. New members to the Fund
17 are required to undergo a physical examination for purposes of
18 determining preexisting conditions. This physical examination
19 shall be conducted in conjunction with the City's postoffer,
20 preemployment physical examination. The Board's medical
21 director shall review the results of this physical examination
22 and provide notice to the Board and the member of any abnormal
23 findings of the examination. This physical examination will be
24 used for the purposes of establishing a physical profile of
25 the member for determining preexisting conditions and
26 presumptive illnesses as provided for in subsection (6). After
27 review, if further physical examination is required, such
28 examination shall be conducted at Board expense.

29 (i) Compensation.--The trustees of the Fund shall not
30 receive any compensation for their services as such, but may
31 receive expenses and per diem as provided by law.

1 (2) Professional and clerical services.--
2 (a) Pension administrator.--The pension administrator
3 of the Fund shall be designated by the Board and shall carry
4 out its orders and directions.
5 (b) Legal counsel.--The City Attorney shall give
6 advice to the Board in all matters pertaining to its duties in
7 the administration of the Fund whenever requested, shall
8 represent and defend the Board as its attorney in all suits
9 and actions at law or in equity that may be brought against
10 it, and shall bring all suits and actions in its behalf that
11 may be required or determined by the Board. However, if the
12 Board so elects, it may employ independent legal counsel at
13 the Fund's expense for the purposes set forth in this act.
14 (c) Actuary.--The Board shall designate an enrolled
15 actuary, who shall be its technical advisor and who shall
16 perform such actuarial services as are required.
17 (d) Certified public accountant.--The Board shall
18 employ, at its expense, a certified public accountant to
19 conduct an independent audit of the Fund. The certified public
20 accountant shall be independent of the Board and the City.
21 (e) Additional professional, technical, or other
22 services.--The Board shall have the authority to employ such
23 professional, technical, or other advisors as required to
24 carry out the provisions of this act.
25 (3) Sources of revenue.--The financing of the Fund
26 shall consist of the following sources of revenue:
27 (a) Taxes of insurance companies.--The moneys returned
28 to the City as provided by chapter 175, Florida Statutes,
29 shall be used to fund the share account benefit described in
30 paragraph (5)(j). The City shall not opt out of participation
31 in chapter 175, Florida Statutes, or any similar statutory

1 enactment unless exigent circumstances exist, such as the
2 bankruptcy of the City or changes or amendments to the statute
3 regarding extra benefits by the Legislature. If any statutory
4 changes are made by the Legislature, the City and the Board
5 may renegotiate the impact of such changes, if necessary.

6 (b) Member contributions.--The member shall contribute
7 6.45 percent of his or her salary to the Fund, which shall be
8 deducted each pay period from the salary of each member in the
9 Department. Effective the first full payroll period after
10 October 1, 2001, the member shall contribute 7.85 percent of
11 his or her salary to the Fund, which shall be deducted each
12 pay period from the salary of each member in the Department.
13 Effective the first full payroll period after October 1, 2002,
14 the member shall contribute 8.85 percent of his or her salary
15 to the Fund, which shall be deducted each pay period from the
16 salary of each member in the Department. Effective the first
17 full payroll period after October 1, 2003, the member shall
18 contribute 9.85 percent of his or her salary to the Fund,
19 which shall be deducted each pay period from the salary of
20 each member in the Department.

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

30 (d) Gifts, etc.--All gifts, bequests, and devises when
31 donated for the Fund.

1 (e) Interest from deposits.--All accretions to the
2 Fund by way of interest or dividends on bank deposits or
3 otherwise.

4 (f) Other sources.--All other sources of income now or
5 hereafter authorized by law for the augmentation of the Fund.

6 (4) Custodian of funds.--All moneys and securities of
7 the Fund may be deposited with the cash management coordinator
8 of the City, acting in a ministerial capacity only, who shall
9 be bonded and shall be liable in the same manner and to the
10 same extent as he or she is liable for the safekeeping of
11 funds for the City. However, any funds and securities so
12 deposited with the cash management coordinator shall be kept
13 in a separate fund by the cash management coordinator or
14 clearly identified as funds and securities of the Fund. In
15 lieu thereof, the Board shall deposit the funds and securities
16 in a qualified public depository designated by the Board. The
17 cash management coordinator or other depository shall receive
18 all moneys due said Fund from all sources whatsoever. All tax
19 revenue received pursuant to the provisions of chapter 175,
20 Florida Statutes, shall be deposited into the Fund no more
21 than 5 days after receipt. Member contributions withheld by
22 the City on behalf of a member shall be deposited into the
23 Fund immediately.

24 (a) Disbursements from the Fund.--The Board may issue
25 drafts upon the Fund pursuant to this act and rules and
26 regulations prescribed by the Board, provided that such drafts
27 shall be issued in accordance with generally accepted
28 accounting procedures, American Institute of Certified Public
29 Accountants guidelines, and rules of the State of Florida
30 Auditor General. All such drafts shall be consecutively
31 numbered, signed by the chair and secretary, and each draft

1 shall, upon its face, state the purpose for which it is drawn.
2 For this purpose, the chair and secretary shall be bonded. The
3 Board shall retain such drafts when paid, as permanent
4 vouchers for disbursements made, and no moneys shall be
5 otherwise drawn from the Fund. Payments from the Fund shall be
6 made only upon a specific or general motion or resolution
7 previously adopted by the Board authorizing such payment or
8 payments.

9 (b) Investment of moneys.--The Board shall have the
10 power and authority to invest and reinvest the moneys of the
11 Fund, and to hold, purchase, sell, assign, transfer, and
12 dispose of any securities and investments held in said Fund.
13 The aim of the investment policies shall be to preserve the
14 integrity and security of Fund principal, to maintain a
15 balanced investment portfolio, to maintain and enhance the
16 value of Fund principal, and to secure the maximum total
17 return on investments that is consonant with safety of
18 principal, provided that such investments and reinvestments
19 shall be limited to the following:

20 1. Direct obligations of the United States Government
21 or any agency thereof and debentures and other evidences of
22 indebtedness which are fully guaranteed by the United States
23 Government or any agency thereof for the payment of principal
24 and interest.

25 2. Direct obligations of the State of Florida.

26 3. In debt securities, preferred and common stocks and
27 mutual fund shares subject to the limitations set forth in
28 this section.

29 4. In time or savings accounts of a national bank, a
30 state bank insured by the Bank Insurance Fund, a savings and
31 loan association to the extent that deposits are guaranteed by

1 the Savings Association Insurance Fund which is administered
2 by the Federal Deposit Insurance Corporation, or a state or
3 federally chartered credit union whose share accounts are
4 insured by the National Credit Union Share Insurance Fund.

5 5. Of the total Fund principal in the pension or
6 retirement system, including the amounts deposited in banks or
7 associations, the total thereof invested in preferred stocks
8 shall not aggregate more than 5 percent, and the total amount
9 thereof invested in common stocks and mutual fund shares shall
10 not aggregate more than 70 percent. Percentages shall be based
11 on market value at the end of each reporting period (September
12 30).

13 6. The following minimum standards shall govern the
14 eligibility of securities for purchase as investments:

15 a. All corporate and association securities and mutual
16 fund shares shall be issued by a corporation or other legal
17 person incorporated or otherwise organized within the United
18 States and domiciled therein to the extent required by section
19 175.071(1)(b), Florida Statutes.

20 b. Not more than 10 percent of the total fund
21 principal at market value shall be invested in any one issuing
22 company other than obligations of the United States or an
23 agency thereof.

24 c. All bonds, stocks, or other evidence of
25 indebtedness issued or guaranteed by a corporation shall be
26 listed on any one or more of the recognized national stock
27 exchanges and, in the case of bonds only, shall hold a rating
28 in one of the four highest classifications by a major rating
29 service. Said bonds and preferred stocks that are convertible
30 into common stocks shall be considered common stocks and the
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1 purchase of same shall be limited by the provisions of
2 subparagraph 5.
3 d. The Board shall engage the services of professional
4 investment counsel to assist and advise the trustees in the
5 performance of their duties.
6 e. At least once every 3 years, the Board shall retain
7 an independent consultant professionally qualified to evaluate
8 the performance of its professional money manager or
9 investment counsel. The independent consultant shall make
10 recommendations to the Board at its next regularly scheduled
11 meeting.
12 (c) Maximum of cash not invested.--No more than 10
13 percent of the assets of the Fund shall be held in cash or in
14 noninterest-bearing deposits.
15 (d) Administrative expenses.--The administrative
16 expenses of the Fund shall be paid by the Fund.
17 (e) Restrictions on the use of assets of Fund.--The
18 assets of the Fund shall be used only for the payment of
19 benefits and other disbursements authorized by this act and
20 shall be used for no other purpose.
21 (5) Service pension.--
22 (a) Normal retirement.--
23 1. Any member whose entry or reentry in the employment
24 of the Department occurs after April 30, 1959, who has
25 attained age 50 years and who has acquired 15 or more years of
26 service credit or has 25 years of service credit without
27 regard to age shall, upon application filed with the Board, be
28 retired and shall be entitled to a monthly pension for the
29 remainder of his or her life equal to the greater of the
30 following, as applicable:
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1 a. For a member who is actively employed by the
2 Department on or after October 1, 1998, or who is part of the
3 DROP on or after October 1, 1998, 3 percent of his or her
4 final average salary multiplied by the number of years, and
5 fraction of a year, of service credit earned from and after
6 October 1, 1982, plus 2-1/2 percent of his or her final
7 average salary multiplied by the number of years, and fraction
8 of a year, of service credit earned prior to October 1, 1982,
9 provided that in no case shall the total monthly pension
10 payable to any such member exceed 78 percent of his or her
11 final average salary;

12 b. For members who terminated employment, retired, or
13 entered the DROP prior to October 1, 1998, except as provided
14 in sub-subparagraph a., 2-1/2 percent of his or her final
15 average salary multiplied by the number of years, and fraction
16 of a year, of service credit, provided that in no case shall
17 the total monthly pension payable to any member exceed 65
18 percent of his or her final average salary; or

19 c. The sum of the following:

20 (I) Two and one-half percent of final average salary
21 multiplied by the number of years, and fraction of a year, of
22 service credit to a maximum of 26 years of service, and 2
23 percent of his or her final average salary multiplied by the
24 number of years, and fraction of a year, in excess of 26 years
25 of service, for all years of service earned through September
26 30, 1988; and

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

30 2. Any member whose entry or reentry in the employment
31 of the Department occurs after April 30, 1959, and prior to

1 July 1, 1977, may elect upon his or her retirement to receive
2 a pension under the provisions of this subparagraph in lieu of
3 subparagraph 1., as follows: Any member who has attained age
4 55 years and who has acquired 20 or more years of service
5 credit shall, upon his or her application filed with the
6 Board, be retired and, when so retired, shall be entitled to a
7 monthly pension for the remainder of his or her life equal to
8 the greater of the following:
9 a. Two percent of final average salary multiplied by
10 the number of years, or fraction of a year, of service credit
11 not to exceed 25 years, provided that in no case shall the
12 total monthly pension payable to any member exceed 65 percent
13 of his or her final average salary; or
14 b. The sum of the following:
15 (I) Two and one-half percent of final average salary
16 multiplied by the number of years, and fraction of a year, of
17 service credit to a maximum of 26 years of service, and 2
18 percent of final average salary multiplied by the number of
19 years and fraction of a year in excess of 26 years of service,
20 for all years of service earned through September 30, 1988;
21 and
22 (II) Two percent of final average salary multiplied by
23 the number of years, and fraction of a year, of service credit
24 earned on and after October 1, 1988. The 3-percent benefit
25 accrual factor in sub-subparagraph 1.a. is contingent on and
26 subject to the adoption and maintenance of the assumptions set
27 forth in subsection (22). If such assumptions are modified by
28 legislative, judicial, or administrative agency action, and
29 the modification results in increased City contributions to
30 the Pension Fund, the 3-percent accrual factor in
31 sub-subparagraph 1.a. shall be automatically decreased

1 prospectively, from the date of the action, to completely
2 offset the increase in City contributions. However, in no
3 event shall the benefit accrual factor in sub-subparagraph
4 1.a. be adjusted below 2.5 percent. To the extent that the
5 benefit accrual factor is less than 3 percent, the
6 supplemental pension distribution calculation under paragraph
7 (d) shall be adjusted for employees who retire on or after
8 October 1, 1998, and those employees who were members of the
9 DROP on October 1, 1998. The adjustment shall be to decrease
10 the minimum return of 8.25 percent needed to afford the
11 supplemental pension distribution, when the amount of the
12 reduction is zero if an employee has been credited with 16 or
13 more years with the 3-percent benefit accrual factor or 1.25
14 percent if an employee has been credited with no more than a
15 2.5-percent benefit accrual factor. If an employee has been
16 credited with less than 16 years at the 3-percent benefit
17 accrual factor, then the accumulated amount over 2.5 percent
18 for each year of service divided by .5 percent divided by 16
19 subtracted from 1 multiplied by 1.25 percent is the reduction
20 from 8.25 percent. An example of the calculation of the
21 minimum return for supplemental pension distribution as
22 described above is set forth in Appendix B to the collective
23 bargaining agreement between the City of West Palm Beach and
24 the West Palm Beach Association of Firefighters, Local
25 727-IAFF, October 1, 1998-September 30, 2001.

26 (b) Vested deferred retirement.--A member who leaves
27 the employ of the Department with 10 or more years of credited
28 service who is not eligible for any other retirement benefit
29 under this act shall be entitled to the applicable pension
30 provided for in paragraph (a) or paragraph (c). Payment of
31 this pension shall begin the first day of the calendar month

1 following the month in which the member's application is filed
2 with and accepted by the Board on or after attainment of age
3 50 years. If applicable, the amount of the pension shall be
4 determined in accordance with paragraph (c).

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

20 (d) Supplemental pension distribution.--

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

27 b. The actuary for the Pension Fund shall determine
28 the actuarial present value, as of September 30, of future
29 pension payments to eligible persons, as described in
30 subparagraph 3., who are then being paid a pension. The
31 actuarial present values shall be calculated using an interest

1 rate of 7 percent per year compounded yearly and a mortality
2 table as approved by the Board of Trustees and as used in the
3 most recent actuarial report submitted pursuant to part VII of
4 chapter 112, Florida Statutes.

5 c. A distribution amount shall be determined as of
6 each September 30. For distributions made after October 1,
7 1998, there shall be two different calculations to determine
8 the distribution amount. For those employees who retire on or
9 after October 1, 1998, or who are part of the DROP on or after
10 October 1, 1998, the distribution amount shall be equal to
11 factor (i) for each applicable member multiplied by the sum of
12 factor (ii) and the positive difference, if any, between
13 factor (iii) and 8.25 percent. For those employees who have
14 retired before October 1, 1998, except as provided in this
15 sub-subparagraph, the distribution amount shall be equal to
16 factor (i) for each applicable member multiplied by the sum of
17 factor (ii) and the positive difference, if any, between
18 factor (iii) and 7 percent. For purposes of both calculations,
19 factor (i) is the actuarial present value determined in
20 sub-subparagraph 1.b. for the respective group. Factor (ii) is
21 one-half of the investment return rate in sub-subparagraph
22 1.a. in excess of 9 percent. Factor (iii) is the rate of
23 investment return in sub-subparagraph 1.a., not to exceed 9
24 percent. The distribution amount shall not exceed accumulated
25 net actuarial experience from all pension liabilities and
26 assets. If the net actuarial experience is favorable,
27 cumulatively, commencing with the experience for the year
28 ended September 30, 1985, after offset for all prior
29 supplemental distributions, the supplemental distribution may
30 be made. If the net actuarial experience is unfavorable,
31 cumulatively, commencing with the experience for the year

1 ended September 30, 1985, after offset for all prior
2 supplemental distributions, no supplemental distribution may
3 be made, and the City must amortize the loss until it is
4 offset by cumulative favorable experience.

5
6 If an actuarial report submitted as provided in this paragraph
7 is not state accepted prior to distribution, and if a
8 deficiency to the Pension Fund results, the deficiency shall
9 be made up from the next available supplemental pension
10 distribution, unless sooner made up by agreement between the
11 Board of Trustees and the City. No such deficiency shall be
12 permitted to continue for a period of greater than 3 years
13 from the date of payment of the supplemental pension
14 distribution which resulted in the deficiency.

15 2. The Board of Trustees shall determine annually if
16 there is to be a supplemental pension distribution. The
17 supplemental pension distribution is that portion of the
18 distribution amount, as defined in sub-subparagraph 1.c., to
19 be distributed to eligible persons.

20 3. Eligible persons are:

21 a. Pensioners.

22 b. Surviving spouses.

23 c. Surviving dependent children.

24 d. Surviving dependent parents.

25 e. Pensioners' estates for the year following death
26 only.

27
28 Eligible persons are initially eligible if they have been in
29 receipt of a pension for at least 1 year on the first
30 distribution date following their retirement. A survivor
31 beneficiary of a deceased retired member shall be considered

1 to have been in receipt of a pension for at least 1 year if at
2 least 12 monthly pension payments have been made on account of
3 the retirement. A surviving spouse may count the retirement
4 period, if any, of the deceased member toward the 1-year
5 requirement. Surviving spouses, children, and parents and
6 retired members who receive pension adjustments under the
7 prior escalator clause are not eligible for the supplemental
8 pension distribution.

9 4. The supplemental pension distribution dates shall
10 be the April 1 following the effective date of this subsection
11 and each April 1 thereafter. Each eligible person shall be
12 paid his or her allocated portion of the applicable
13 supplemental pension distribution amount from the preceding
14 September 30. A pensioner's estate is entitled to a pro rata
15 share of the deceased retiree's supplemental pension
16 distribution based on the number of months that the deceased
17 retiree received a pension during the year ending the
18 September 30 prior to the pensioner's death after initial
19 eligibility.

20 5. Each supplemental pension distribution amount shall
21 be allocated among the eligible persons in the proportion that
22 an eligible person's supplemental pension distribution points
23 bears to the aggregate amount of supplemental pension
24 distribution points of all eligible persons. An eligible
25 person shall be credited with supplemental pension
26 distribution points as follows:

27 a. Three and eighty-five hundredths of a point
28 multiplied by the service credit of the member at the time of
29 retirement or prior to death; however, in the computation of
30 the supplemental pension distribution due the in-line-of-duty
31

1 pensioner, the maximum service credit of 26 years shall be
2 used.

3 b. Maximum service credit shall be 26 years.

4 c. Allocations for surviving spouses and surviving
5 dependent children who are eligible to receive supplemental
6 pension distributions shall be 75 percent of the years of
7 service earned by the pensioner. Allocations for duty death
8 beneficiaries (surviving spouse and surviving children) shall
9 be based upon 75 percent of 26 years of service.

10 (e) Payment of benefits.--

11 1. First payment.--Service pensions shall be payable
12 on the first day of each month. The first payment shall be
13 payable on the first day of the month coincident with or next
14 following the date of retirement, or death, provided the
15 member has completed the applicable age and service
16 requirements.

17 2. Last payment.--The last payment shall be the
18 payment due next preceding the member's death, except that
19 payments shall be continued to the designated beneficiary or
20 beneficiaries if a 10-year certain benefit, a joint and
21 survivor option, or beneficiary benefits, as applicable, are
22 payable.

23 (f) Normal form of retirement income.--

24 1. Married member.--The normal form of retirement
25 benefit for a married member or for a member with a dependent
26 child or children or parent or parents shall be a service
27 pension and beneficiary benefits. The service benefit shall
28 provide monthly payments for the life of the member.
29 Thereafter, beneficiary benefits shall be paid as provided in
30 subsection (7).

31

1 2. Unmarried member.--The normal form of retirement
2 benefit for an unmarried member without a dependent child or
3 children or parent or parents shall be a 10-year certain
4 benefit. This benefit shall pay monthly benefits for the
5 member's lifetime. In the event the member dies after his or
6 her retirement but before receiving retirement benefits for a
7 period of 10 years, the same monthly benefit shall be paid to
8 the beneficiary or beneficiaries as designated by the member
9 for the balance of such 10-year period or, if no beneficiary
10 is designated, to heirs at law, or estate of the member, as
11 provided in section 175.181, Florida Statutes.

12 (g) Optional forms of retirement income.--

13 1.a. In the event of normal, early, or disability
14 retirement, in lieu of the normal form of retirement income
15 payable as specified in paragraph (a), paragraph (b),
16 paragraph (c), or subsection (6) and in lieu of the
17 beneficiary benefits as specified in subsection (7), a member,
18 upon written request to the Board and subject to the approval
19 of the Board, may elect to receive a retirement income of
20 equivalent actuarial value payable in accordance with one of
21 the following options:

22 (I) Lifetime option.--A retirement income of a larger
23 monthly amount, payable to the member for his or her lifetime
24 only.

25 (II) Joint and survivor option.--A retirement income
26 of a modified monthly amount, payable to the member during the
27 joint lifetime of the member and a dependent joint pensioner
28 designated by the member, and following the death of either of
29 them, 100 percent, 75 percent, 66-2/3 percent, or 50 percent
30 of such monthly amounts, payable to the survivor for the
31 lifetime of the survivor.

1 b. The member, upon electing any option of this
2 paragraph, shall designate the joint pensioner or beneficiary
3 or beneficiaries to receive the benefit, if any, payable in
4 the event of his or her death, and will have the power to
5 change such designation from time to time; but any such change
6 shall be deemed a new election and shall be subject to
7 approval by the Board. Such designation shall name a joint
8 pensioner or one or more primary beneficiaries where
9 applicable. If a member has elected an option with a joint
10 pensioner or beneficiary and his or her retirement income
11 benefits have commenced, he or she may thereafter change the
12 designated joint pensioner or beneficiary only twice.

13 c. The consent of a member's joint pensioner or
14 beneficiary to any such change shall not be required. However,
15 the spouse of a married member must consent to any election to
16 waive a joint and survivor benefit by signing the election
17 form before a notary public. The spouse's written consent must
18 acknowledge the effect of such a waiver. Consent of the spouse
19 shall not be required if the spouse cannot be located, or for
20 such other circumstances as may be prescribed by the Secretary
21 of the Treasury of the United States. Any consent by a spouse
22 shall be effective only with respect to such spouse.

23 d. The Board may request such evidence of the good
24 health of the joint pensioner that is being added as it may
25 require; and the amount of the retirement income payable to
26 the member upon the designation of a new joint pensioner shall
27 be actuarially redetermined, taking into account the age and
28 sex of the former joint pensioner, the new joint pensioner,
29 and the member. Each such designation shall be filed with the
30 Board. In the event that no designated beneficiary survives
31 the member, such benefits as are payable in the event of the

1 death of the member subsequent to his or her retirement shall
2 be paid as provided in subparagraph (h)2.
3 2. Retirement income payments shall be made under the
4 option elected in accordance with the provisions of this
5 paragraph and shall be subject to the following limitations:
6 a. If a member dies prior to his or her normal
7 retirement date or early retirement date, whichever first
8 occurs, retirement benefits shall be paid in accordance with
9 subsection (7).
10 b. If the designated beneficiary or beneficiaries or
11 joint pensioner dies before the member's retirement, the
12 option elected shall be canceled automatically and a
13 retirement income of the normal form and amount shall be
14 payable to the member upon the member's retirement as if the
15 election has not been made, unless a new election is made in
16 accordance with the provisions of this paragraph or a new
17 beneficiary is designated by the member prior to retirement.
18 c. If a member continues in the employ of the
19 Department after meeting the age and service requirements set
20 forth in paragraph (a) or paragraph (c) and dies prior to the
21 member's actual retirement, and while an option made pursuant
22 to this subparagraph is in effect, monthly retirement income
23 payments shall be paid, under the option, to a beneficiary or
24 beneficiaries designated by the member in the amount or
25 amounts computed as if the member has retired under the option
26 on the date on which the member's death occurred.
27 3. No member may make any change in his or her
28 retirement option after the date of cashing or depositing the
29 first retirement check.
30 (h) Designation of beneficiary.--
31

1 1. Each member may, on a form provided for that
2 purpose, signed and filed with the Board, designate a
3 beneficiary or beneficiaries to receive the benefit, if any,
4 which may be payable in the event of the member's death; and
5 each designation may be revoked by such member by signing and
6 filing with the Board a new designation of beneficiary form.
7 However, after the benefits have commenced, a retirant may
8 change his or her designation of joint annuitant or
9 beneficiary only twice. If the retirant desires to change his
10 or her joint annuitant or beneficiary, the retirant shall file
11 with the Board a notarized notice of such change either by
12 registered letter or on a form as provided by the Board. Upon
13 receipt of a completed change of joint annuitant form or such
14 other notice, the Board shall adjust the member's monthly
15 benefit by the application of actuarial tables and
16 calculations developed to ensure that the benefit paid is the
17 actuarial equivalent of the present value of the member's
18 current benefit.

19 2. Absence or death of beneficiary.--If a deceased
20 member fails to name a beneficiary in the manner prescribed in
21 subparagraph 1., or if the beneficiary or beneficiaries named
22 by a deceased member predecease the member, the beneficiary
23 benefits, if any, which may be payable with respect to such
24 deceased member may be paid, in the discretion of the Board
25 to:

26 a. The spouse or dependent child or children of the
27 member;

28 b. The dependent living parent or parents of the
29 member; or

30 c. The estate of the member.
31

1 (i) Refund of contributions.--In the event a member
2 leaves the employ of the Department or dies with less than 10
3 years of credited service, and no service pension, disability
4 pension, or beneficiary benefit is payable, the contributions
5 made by him or her to the Fund shall be refunded, without
6 interest (less any disability payments paid to the member), to
7 the member or, in the event of death, to the beneficiary or to
8 the member's estate.

9 (j) Chapter 175, Florida Statutes, share accounts.--

10 1. Individual member accounts.--A separate account
11 shall be established and maintained in each member's name
12 effective on or after October 1, 1988.

13 2. Share account funding.--

14 a. Each individual member account shall be credited
15 with a pro rata share of all of the moneys received from
16 chapter 175, Florida Statutes, tax revenues in June 1988 and
17 thereafter.

18 b. In addition, any forfeitures as provided in
19 subparagraph 5. shall be credited to the individual member
20 accounts in accordance with the formula set forth in
21 subparagraph 3.

22 3. Annual allocation of accounts.--

23 a. Moneys shall be credited to each individual member
24 account in an amount directly proportionate to the number of
25 pay periods for which the member was paid compared to the
26 total number of pay periods for which all members were paid,
27 counting the pay periods in the calendar year preceding the
28 date for which chapter 175, Florida Statutes, tax revenues
29 were received.

30 b. At the end of each fiscal year (September 30), each
31 individual account shall be adjusted to reflect the earnings

1 or losses resulting from investment, as well as reflecting
2 costs, fees, and expenses of administration.
3 c. The investment earnings or losses credited to the
4 individual member accounts shall be in the same percentage as
5 are earned or lost by the total investment earnings or losses
6 of the Fund as a whole, unless the Board dedicates a separate
7 investment portfolio for chapter 175, Florida Statutes, share
8 accounts, in which case the investment earnings or losses
9 shall be measured by the investment earnings or losses of the
10 separate investment portfolio.
11 d. Costs, fees, and expenses of administration shall
12 be debited from the individual member accounts on a
13 proportionate basis, taking the cost, fees, and expenses of
14 administration of the Fund as a whole, multiplied by a
15 fraction, the numerator of which is the total assets in all
16 individual member accounts and the denominator of which is the
17 total assets of the Fund as a whole. The proportionate share
18 of the costs, fees, and expenses shall be debited from each
19 individual member account on a pro rata basis in the same
20 manner as chapter 175, Florida Statutes, tax revenues are
21 credited to each individual member account (i.e., based on pay
22 periods).
23 e. If the entire balance of the individual member
24 account is withdrawn before September 30 of any year, there
25 shall be no adjustment made to that individual member account
26 to reflect either investment earnings or losses or costs,
27 fees, and expenses of administration.
28 4. Eligibility for benefits.--Any member who
29 terminates employment with the City, upon the member's filing
30 an application with the Board, shall be entitled to 100
31

1 percent of the value of his or her individual member account,
2 provided the member meets any of the following criteria:
3 a. The member is eligible to receive a service pension
4 as provided in this subsection;
5 b. The member has 5 or more years of credited service
6 and is eligible to receive either:
7 (I) A nonduty disability pension as provided in
8 paragraph (6)(a); or
9 (II) Beneficiary benefits for nonduty death as
10 provided in paragraph (7)(a); or
11 c. The member has any credited service and is eligible
12 to receive either:
13 (I) A duty disability pension as provided in paragraph
14 (6)(c); or
15 (II) Beneficiary benefits for death in the line of
16 duty as provided in paragraph (7)(b).
17 5. Forfeitures.--Any member who has less than 10 years
18 of credited service and who is not eligible for payment of
19 benefits after termination of employment with the City shall
20 forfeit his or her individual member account. The amounts
21 credited to said individual member account shall be
22 redistributed to the other individual member accounts in the
23 same manner as chapter 175, Florida Statutes, tax revenues are
24 credited (i.e., based on pay periods).
25 6. Payment of benefits.--The normal form of benefit
26 payment shall be a lump sum payment of the entire balance of
27 the individual member account; or, upon the written election
28 of the member, upon a form prescribed by the Board, payment
29 may be made either over 3 years in annual installments or in
30 the form of a monthly annuity.
31

1 7. Death of a member.--If a member dies and is
2 eligible for benefits from the individual member account, the
3 entire balance of the individual member account shall be paid
4 in a lump sum to the beneficiaries designated in accordance
5 with paragraph (h). If a member fails to designate a
6 beneficiary or, if the beneficiary predeceases the member, the
7 entire balance shall be paid in a lump sum in the following
8 order:
9 a. To the spouse;
10 b. If there is no spouse or the spouse is not alive,
11 to the member's surviving child or children on a pro rata
12 basis;
13 c. If there are no children or no child is alive, to
14 the member's parent or parents; or
15 d. If no parent is alive, to the estate of the member.
16 (k) Deferred Retirement Option Plan (DROP).--
17 1. Eligibility to participate in the DROP.--
18 a. Any member who is eligible to receive an early or
19 normal retirement pension may participate in the DROP. Members
20 shall elect to participate by applying to the Board of
21 Trustees on a form provided for that purpose.
22 b. Election to participate shall be forfeited if not
23 exercised within the first 35 years of combined credited
24 service.
25 c. A member shall not participate in the DROP beyond
26 the time of attaining 37 years of service and the total years
27 of participation in the DROP shall not exceed 5 years. For
28 example:
29 (I) Members with 32 years of credited service at the
30 time of entry shall participate for only 5 years.
31

1 (II) Members with 33 years of credited service at the
2 time of entry shall participate for only 4 years.

3 (III) Members with 34 years of credited service at the
4 time of entry shall participate for only 3 years.

5 (IV) Members with 35 years of credited service at the
6 time of entry shall participate for only 2 years.

7 d. Upon a member's election to participate in the
8 DROP, he or she shall cease to be a member and shall no longer
9 accrue any benefits under the Pension Fund, except for the
10 benefits provided under paragraph (j) of this subsection,
11 chapter 175, Florida Statutes, share accounts. For all Fund
12 purposes, the member becomes a retirant, except that a DROP
13 participant shall continue to receive shares of the chapter
14 175, Florida Statutes, money in accordance with paragraph (j),
15 chapter 175, Florida Statutes, share accounts. The amount of
16 credited service and final average salary shall freeze as of
17 the date of entry into the DROP.

18 2. Amounts payable upon election to participate in the
19 DROP.--

20 a. Monthly retirement benefits that would have been
21 payable had the member terminated employment with the
22 Department and elected to receive monthly pension payments
23 shall be paid into the DROP and credited to the retirant.
24 Payments into the DROP shall be made monthly over the period
25 the retirant participates in the DROP, up to a maximum of 60
26 months.

27 b. Payments to the DROP earn interest using the rate
28 of investment return earned on Pension Fund assets as reported
29 by the Fund's investment monitor. DROP assets are commingled
30 with the Pension Fund assets for investment purposes. However,
31 if a member does not terminate employment at the end of

1 participation in the DROP, interest credit shall cease on the
2 current balance and on all future DROP deposits.
3 c. No payments shall be made from the DROP until the
4 member terminates employment with the Department.
5 d. Upon termination of employment, participants in the
6 DROP shall receive the balance of the DROP account in
7 accordance with the following rules:
8 (I) Members may elect to receive payment upon
9 termination of employment or defer payment of the DROP until
10 the latest day under sub-sub-subparagraph (III).
11 (II) Payments shall be made in either:
12 (A) Lump sum.--The entire account balance shall be
13 paid to the retirant upon approval of the Board of Trustees.
14 (B) Installments.--The account balance shall be paid
15 out to the retirant in three equal payments paid over 3 years,
16 the first payment to be made upon approval of the Board of
17 Trustees.
18 (C) Annuity.--The account balance shall be paid out in
19 monthly installments over the lifetime of the member or until
20 the entire balance is exhausted. The monthly amount paid shall
21 be determined by the Fund's actuary in accordance with
22 selections made by the member in a form provided by the Board
23 of Trustees.
24 (III) Any form of payment selected by a member must
25 comply with the minimum distribution requirements of the IRC
26 401(A)(9), and are subject to the requirements of subsection
27 (19).
28 (IV) The beneficiary of the DROP participant who dies
29 before payments from DROP begin shall have the same right as
30 the participant in accordance with subsection (7).
31 3. Loans from the DROP.--

- 1 a. Availability of loans.--
2 (I) Loans are available to members only after
3 termination of employment, provided the member had
4 participated in the DROP for a period of 12 months.
5 (II) Loans may only be made from a member's own
6 account.
7 (III) There may be no more than one loan at a time.
8 b. Amount of loan.--
9 (I) Loans may be made up to a maximum of 50 percent of
10 account balance.
11 (II) The maximum dollar amount of a loan is \$50,000,
12 reduced by the highest outstanding loan balance during the
13 last 12 months.
14 (III) The minimum amount of a loan is \$5,000.
15 c. Limitation on loans.--Loans shall be made from the
16 amounts paid into the DROP and earnings thereon.
17 d. Term of the loan.--
18 (I) The loan must be for at least 1 year.
19 (II) The loan shall be no longer than 5 years.
20 e. Loan interest rate.--
21 (I) The interest rate shall be fixed at the time the
22 loan is originated for the entire term of the loan.
23 (II) The interest rate shall be equal to the lowest
24 prime rate published by the Wall Street Journal on the last
25 day of each calendar quarter preceding the date of the loan
26 application.
27 f. Defaults of loans.--
28 (I) Loans shall be in default if 2 consecutive months'
29 repayments are missed or if a total of 4 months' repayments
30 are missed.
31

1 (II) Upon default, the entire balance becomes due and
2 payable immediately.

3 (III) If a loan in default is not repaid in full
4 immediately, the loan may be canceled and the outstanding
5 balance treated as a distribution, which may be taxable.

6 (IV) Upon default of a loan, a member shall not be
7 eligible for additional loans.

8 g. Miscellaneous provisions.--

9 (I) All loans must be evidenced by a written loan
10 agreement signed by the member and the Board of Trustees. The
11 agreement shall contain a promissory note.

12 (II) A member's spouse must consent in writing to the
13 loan. The consent shall acknowledge the effect of the loan on
14 the member's account balance.

15 (III) Loans shall be considered general assets of the
16 Fund.

17 (IV) Loans shall be subject to administrative fees to
18 be set by the Board of Trustees.

19 4. After-tax contributions to the DROP.--

20 a. A member may make after-tax contributions to the
21 DROP. The maximum amount that may be contributed is the lesser
22 of:

23 (I) The IRS 415(c) limit.

24 (II) The amount allowable under IRC 401(m).

25 b. After-tax contributions to the DROP shall earn
26 interest in the same manner as set forth in sub-subparagraph
27 2.b.

28 c. Distributions to members or their beneficiaries of
29 after-tax contributions may be withdrawn at any time on or
30 after termination of employment. However, payments must be
31 made at least as promptly as required under subsection (19).

1 d. Loans shall not be made against after-tax
2 contributions.
3 (6) Disability pensions, medical examinations, return
4 to work, etc.--
5 (a) Nonduty disability requirements.--Any member with
6 5 or more years of service credit who is regularly employed in
7 the Department who becomes physically or mentally totally and
8 permanently disabled by illness, disease, or injury to perform
9 the duties of a firefighter shall, upon the member's
10 application to the Board, be retired with a pension provided
11 for in this paragraph, provided that after a medical
12 examination of the member made by or under the direction of a
13 medical committee, the medical committee reports to the Board,
14 in writing, whether:
15 1. The member is wholly prevented from rendering
16 useful and efficient service as a firefighter; and
17 2. The member is likely to remain so disabled
18 continuously and permanently.
19
20 The Board may admit and consider any other evidence that it
21 deems appropriate. The final decision as to whether a member
22 meets the requirements for a nonduty disability pension rests
23 with the Board and shall be based on competent substantial
24 evidence on the record as a whole.
25 (b) Nonduty disability pension benefits.--Upon
26 retirement on account of disability as provided in paragraph
27 (a), a member shall receive a disability pension computed
28 according to subparagraph (5)(a)1., notwithstanding that he or
29 she might not have attained age 50 years and might not have 15
30 or more years of service credit. Further, if the member has at
31 least 10 years of service credit, the disability pension shall

1 not be less than 25 percent of the member's average monthly
2 salary at the time of disability. A disability retiree may
3 select optional forms of benefits in accordance with paragraph
4 (5)(g).

5 (c) Duty disability requirements.--Any member who is
6 regularly employed in the Department and who becomes
7 physically or mentally totally and permanently disabled to
8 perform the duties of a firefighter by reason of an injury or
9 disease arising out of and in the course of the performance of
10 his or her duties as a firefighter in the employ of the City,
11 shall, upon his or her application to the Board, be retired
12 with a disability pension provided for in this paragraph,
13 provided that after a medical examination of the member made
14 by or under the direction of the medical committee, the
15 medical committee reports to the Board in writing, whether:

16 1. The member is wholly prevented from rendering
17 useful and efficient service as a firefighter; and

18 2. The member is likely to remain so disabled
19 continuously and permanently.

20
21 The Board shall admit and consider any other evidence that it
22 deems appropriate. Any condition or impairment of health of a
23 member caused by tuberculosis, hypertension, heart disease,
24 hepatitis, or meningococcal meningitis resulting in total
25 disability or death shall be presumed to have been accidental
26 and suffered in the line of duty unless the contrary is shown
27 by competent evidence, provided such member shall have
28 successfully passed a physical examination before entering
29 into such service, which examination failed to reveal any
30 evidence of such condition. In order to be entitled to the
31 presumption in the case of hepatitis, meningococcal

1 meningitis, or tuberculosis, the member must meet the
2 requirements of section 112.181, Florida Statutes. The final
3 decision as to whether a member meets the requirements for a
4 disability pension rests with the Board, based on competent
5 substantial evidence on the record as a whole.

6 (d) Duty disability pension benefits.--Upon retirement
7 on account of disability, as provided in paragraph (c), a
8 member shall receive a monthly pension for the remainder of
9 his or her life, equal to the greater of the following:

10 1. Sixty-five percent of the final average salary; or

11 2. The sum of the following:

12 a. Two and one-half percent of the member's final
13 average salary multiplied by the number of years, and fraction
14 of a year, of his or her service credit to a maximum of 26
15 years of service, and 2 percent of his or her final average
16 salary multiplied by the number of years, and fraction of a
17 year, in excess of 26 years of service, for all years of
18 service earned through September 30, 1988; and

19 b. Two percent of the member's final average salary
20 multiplied by the number of years, and fraction of a year, of
21 his or her service credit earned on or after October 1, 1988.

22 (e) Medical committee.--The medical committee provided
23 for in this subsection shall consist of no less than two
24 qualified health professionals, one of whom shall be
25 designated by the Board and one by the member. If deemed
26 necessary by the Board, a third qualified health professional,
27 selected by the two committee members previously designated,
28 may be named to the medical committee. The medical committee
29 shall report to the Board the existence and degree of
30 permanent physical impairment of the member, if any, based
31 upon the most recent edition of the American Medical

1 Association's Guide to the Evaluation of Permanent Impairment,
2 if applicable.
3 (f) Exclusions from disability pensions.--No
4 disability pension shall be payable, either as a duty
5 disability pension or as a nonduty disability pension, if the
6 disability is a result of:
7 1. Excessive and habitual use by the member of drugs,
8 intoxicants, or narcotics;
9 2. Injury or disease sustained by the member while
10 willfully and illegally participating in fights, riots, or
11 civil insurrections or while committing a crime;
12 3. Injury or disease sustained by the member while
13 -serving in any armed forces;
14 4. Injury or disease sustained by the member after his
15 or her employment has terminated;
16 5. Injury or disease sustained by the member while
17 working for anyone other than the City and arising out of such
18 employment; or
19 6. Injury or disease sustained by the member before
20 coming to work for the City. This exclusion applies to duty
21 disability applications only.
22 (g) Payment of disability pensions.--Monthly
23 disability retirement benefits shall be payable as of the date
24 the Board determines that the member was entitled to a
25 disability pension; however, the first payment shall actually
26 be paid on the first day of the first month after the Board
27 determines such entitlement. Any portion due for a partial
28 month shall be paid together with the first payment. If the
29 member recovers from the disability prior to his or her normal
30 retirement date, the last payment shall be the payment due
31 next preceding the date of such recovery or, if the member

1 dies without recovering from his or her disability, then the
2 following shall apply:

3 1. Married member.--Beneficiary benefits as set forth
4 in subsection (7) shall be paid if, at the time of death, the
5 member was married or had a dependent child or children or
6 parent or parents; or

7 2. Unmarried member with 10 years of service or
8 more.--Payments shall be made until the member's death or the
9 120th monthly payment, whichever is later; or

10 3. Unmarried member with less than 10 years of
11 service.--Payments shall be made until the member's death.

12
13 Any monthly retirement income payments due after the death of
14 a disabled member shall be paid to the member's designated
15 beneficiary or beneficiaries or the member's estate as
16 provided in paragraph (5)(h) or subsection (7), as applicable.

17 (h) Reexamination of disability retirant.--At least
18 once each year during the first 5 years following a member's
19 retirement on account of disability, and at least once in each
20 3-year period thereafter, the Board shall require any
21 disability retirant who has not attained age 50 to undergo a
22 medical examination to be made by or under the direction of a
23 physician designated by the Board. However, if a disability
24 retirant has lost the firefighter certification, as required
25 by Florida Statutes, then the reexamination is discretionary.
26 If the retirant refuses to submit to the medical examination
27 in any such period, his or her disability pension may be
28 suspended by the Board until withdrawal of such refusal. If
29 such refusal continues for 1 year, all of the retirant's
30 rights in and to a disability pension may be revoked by the
31 Board. If, upon medical examination of the retirant, the

1 physician reports to the Board that the retirant is physically
2 able and capable of performing the duties of a firefighter in
3 the rank held by him or her at the time of retirement, the
4 member shall be returned to employment in the Department at a
5 salary not less than the salary of the rank last held by him
6 or her, provided that return to the employ of the Department
7 shall be subject to the approval of the Fire Chief. Should the
8 retirant become employed by the City, his or her disability
9 pension shall terminate.

10 (i) Return to work of a disability retirant; service
11 credit.--In the event a disability retirant is returned to
12 employment in the department, as provided in paragraph (h),
13 his or her service credit at the time of disability retirement
14 shall be restored to his or her credit. In the event he or she
15 retired under the provisions of paragraph (c), he or she shall
16 be given service credit for the period he or she was in
17 receipt of a disability pension. If he or she retired under
18 the provisions of paragraph (a), he or she shall not be given
19 service credit for the period he or she was in receipt of a
20 disability pension.

21 (j) Expenses of medical examinations for
22 disability.--The member shall be responsible for the expenses
23 of the physician the member designates for medical
24 examinations required under this subsection. Expenses for any
25 other medical examinations required under this subsection
26 shall be paid by the Fund.

27 (7) Beneficiary benefits.--

28 (a) Death while in service; 5 years or more
29 (non-duty).--In the event a member with 5 or more years of
30 service credit dies while in the employ of the Department, and
31 the Board finds his or her death to have occurred as the

1 result of causes arising outside the performance of his or her
2 duties as a firefighter in the employ of the City, the
3 following applicable pensions shall be paid:
4 1. Surviving spouse's benefits.--The surviving spouse
5 shall receive a pension equal to two-thirds of the pension the
6 member would otherwise have been entitled to receive under
7 paragraph (5)(a), as if the member had retired the day
8 preceding the date of his or her death, notwithstanding that
9 the member might not have met the age and service requirements
10 for retirement as specified in subsection (5). Upon the
11 surviving spouse's death, the pension shall terminate.
12 2. Benefits for children, surviving spouse, etc.--In
13 the event the deceased member does not leave a surviving
14 spouse, or if the surviving spouse shall die, and the member
15 leaves an unmarried child or children under age 18, each such
16 child shall receive a pension of an equal share of the pension
17 to which said member's surviving spouse was or would have been
18 entitled. Upon any such child's adoption, marriage, death, or
19 attainment of age 18, the child's pension shall terminate and
20 said child's pension shall be apportioned to the deceased
21 member's remaining eligible children under age 18.
22 3. Benefits for dependent parents.--In the event a
23 member dies and does not leave a surviving spouse or children
24 eligible to receive a pension provided for in subparagraphs 1.
25 and 2., and the member leaves a parent or parents whom the
26 Board finds to have been dependent upon the member for 50
27 percent or more of their financial support, each such parent
28 shall receive a pension of an equal share of the pension to
29 which the member's surviving spouse would have been entitled.
30 Upon any such parent's remarriage or death, the parent's
31 pension shall terminate.

1 4. Estate.--In the event a member dies and does not
2 leave a surviving spouse, children, or parents eligible to
3 receive a pension provided for in subparagraph 1.,
4 subparagraph 2., or subparagraph 3., then the benefits
5 remaining, if any, shall be paid to the member's estate.

6 (b) Death in the line of duty.--In the event a member
7 dies while in the employ of the Department, and the Board
8 finds his or her death to be the natural and proximate result
9 of causes arising out of and in the actual performance of duty
10 as a firefighter in the employ of the City, the following
11 applicable pensions shall be paid:

12 1. Surviving spouse's benefits.--The surviving spouse
13 shall receive a monthly pension equal to three-fourths of the
14 duty disability pension the member would otherwise have been
15 entitled to receive at the time of his or her death. Upon the
16 surviving spouse's death, the pension shall terminate.

17 2. Benefits for children, surviving spouse, etc.--In
18 the event the deceased member does not leave a surviving
19 spouse, or if the surviving spouse shall die, and the member
20 leaves an unmarried child or children under age 18, each such
21 child shall receive a pension of an equal share of the pension
22 to which the member's surviving spouse was or would have been
23 entitled. Upon any such child's adoption, marriage, death, or
24 attainment of age 18, the child's pension shall terminate and
25 said child's pension shall be apportioned to the deceased
26 member's remaining eligible children under age 18.

27 3. Benefits for dependent parents.--In the event a
28 member dies and does not leave a surviving spouse or children
29 eligible to receive a pension provided for in subparagraphs 1.
30 and 2., and the member leaves a parent or parents whom the
31 Board finds to have been dependent upon the member for 50

1 percent or more of their financial support, each such parent
2 shall receive a pension of an equal share of the pension to
3 which said member's surviving spouse would have been entitled.
4 Upon any such parent's remarriage or death, the parent's
5 pension shall terminate.

6 4. Estate.--In the event a member dies and does not
7 leave a surviving spouse, children, or parents eligible to
8 receive a pension provided for in subparagraph 1.,
9 subparagraph 2., or subparagraph 3., then the benefits
10 remaining, if any, shall be paid to the member's estate.

11 (c) Death after retirement.--Upon the death of a
12 retirant, the following applicable pensions shall be paid:

13 1. Surviving spouse's benefits.--The surviving spouse
14 shall receive a pension equal to three-fourths of the
15 retirant's pension at the time of his or her death. Upon the
16 surviving spouse's death, the pension shall terminate.

17 2. Benefits for children, surviving spouse, etc.--In
18 the event a deceased retirant does not leave a surviving
19 spouse, or if the surviving spouse shall die, and the retirant
20 leaves an unmarried child or children under age 18, each such
21 child shall receive a pension of an equal share of the pension
22 to which the retirant's surviving spouse was or would have
23 been entitled. Upon any such child's adoption, marriage,
24 death, or attainment of age 18, the child's pension shall
25 terminate and said child's pension shall be apportioned to the
26 deceased retirant's remaining eligible children under age 18.

27 3. Benefits for dependent parents.--In the event a
28 retirant dies and does not leave a surviving spouse or
29 children eligible to receive a pension provided for in
30 subparagraphs 1. and 2., and the retirant leaves a parent or
31 parents whom the Board finds to have been dependent upon the

1 retirant for 50 percent or more of their financial support,
2 each such parent shall receive a pension of an equal share of
3 the pension to which the retirant's surviving spouse would
4 have been entitled. Upon any such parent's remarriage or
5 death, the parent's pension shall terminate.

6 4. Estate.--In the event a retirant dies and does not
7 leave a surviving spouse, children, or parents eligible to
8 receive a pension provided for in subparagraph 1.,
9 subparagraph 2., or subparagraph 3., then the benefits
10 remaining, if any, shall be paid to the retirant's estate.

11 (8) Acceptance of pension no bar to subsequent
12 work.--The acceptance of a pension by a member upon retirement
13 shall not bar the member from engaging in any other business
14 thereafter.

15 (9) Pension not assignable or subject to
16 garnishment.--The pensions or other benefits accrued or
17 accruing to any person under the provision of this act and the
18 accumulated contributions and the cash securities in the Funds
19 created under this act shall not be subject to execution or
20 attachment or to any legal process whatsoever, and shall be
21 unassignable. However, pursuant to a court support order, the
22 Trustees may direct that the retirement benefits be paid for
23 alimony or child support in accordance with rules and
24 regulations adopted by the Board of Trustees.

25 (10) Transfer of funds.--All funds and assets
26 previously owned and controlled by the West Palm Beach
27 Firemen's Relief and Pension Fund are vested in the Board of
28 this Fund.

29 (11) Ordinances applicable.--All ordinances of the
30 City applicable to chapter 175, Florida Statutes, are hereby
31 made applicable to this act with equal force and effect. No

1 proposed change or amendment to this act shall be adopted
2 without approval required by section 175.351(2), Florida
3 Statutes.

4 (12) Existing benefits to continue.--This act, and any
5 amendments thereto, shall not be construed to decrease the
6 benefits payable to, or on account of, any member of the Fund.

7 (13) Workers' compensation offset.--The pension
8 benefits payable under this act shall not be offset by
9 workers' compensation benefits payable on account of the
10 disability or death of a member except to the extent that the
11 total of the pension benefits and workers' compensation
12 benefits exceed the member's monthly average wage.

13 (14) Actuarial valuations.--The Fund shall be
14 actuarially evaluated annually.

15 (15) Review procedures.--

16 (a) The applicant for benefits under this chapter may,
17 within 20 days after being informed of the denial of his or
18 her request for pension benefits, appeal the denial by filing
19 a reply to the proposed order with the pension's secretary. If
20 no appeal is filed within the time period, then the proposed
21 order shall be final.

22 (b) The Board of Trustees shall hold a hearing within
23 45 days after the receipt of the appeal. Written notice of the
24 hearing shall be sent by certified mail return
25 receipt/restricted to individual, to the applicant at the
26 address listed on the application 10 days prior to the
27 hearing.

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

29 1. All parties shall have an opportunity to respond,
30 to present physical and testimonial evidence and argument on
31 all issues involved, to conduct cross-examination, to submit

1 rebuttal evidence, and to be represented by counsel. Medical
2 reports and depositions may be accepted in lieu of live
3 testimony at the Board's discretion.
4 2. All witnesses shall be sworn.
5 3. The applicant and the Board shall have an
6 opportunity to question all witnesses.
7 4. Formal rules of evidence and formal rules of civil
8 procedure shall not apply. The proceedings shall comply with
9 the essential requirements of due process and law.
10 5. The record in a case governed by this subsection
11 shall consist only of:
12 a. A tape recording of the hearing, to be taped and
13 maintained as part of the official files of the Board of
14 Trustees by the pension's secretary.
15 b. Evidence received or considered.
16 c. All notices, pleadings, motions, and intermediate
17 rulings.
18 d. Any decisions, opinions, proposed or recommended
19 orders, or reports by the Board of Trustees.
20 (d) Within 5 days after the first hearing, the Board
21 shall take one of the following actions:
22 1. Grant the pension benefits by overturning the
23 proposed order by a majority vote.
24 2. Deny the benefits and approve the proposed order as
25 a final order after making any changes in the order the Board
26 feels is necessary.
27 (e) Findings of fact by the Board shall be based on
28 competent, substantial evidence on the record.
29 (f) Within 20 calendar days after rendering its order,
30 the Board of Trustees shall send to the applicant, by
31

1 certified mail return receipt/restricted to individual, a copy
2 of the order.

3 (g) The applicant may seek review of the order by the
4 Board of Trustees by filing a petition for writ of certiorari
5 with the circuit court within 30 days.

6 (16) Lump sum payment of small retirement
7 income.--Notwithstanding any provision of the Fund to the
8 contrary, if the single sum value of the accrued retirement
9 income is less than \$5,000 as of the date of retirement or
10 termination of service, whichever is applicable, the Board of
11 Trustees, in the exercise of its discretion, may specify that
12 the actuarial equivalent of such retirement income be paid in
13 lump sum.

14 (17) Pickup of employee contributions.--Effective the
15 first day of the first full payroll period of the first
16 calendar quarter following receipt of a favorable
17 determination letter from the Internal Revenue Service, the
18 City shall pick up the member contribution required by this
19 section. The contributions so picked up shall be treated as
20 employer contributions in determining tax treatment under the
21 United States Internal Revenue Code. The City shall pick up
22 the member contributions from funds established and available
23 for salaries, which funds would otherwise have been designated
24 as member contributions and paid to the Fund. Member
25 contributions picked up by the City pursuant to this
26 subsection shall be treated for all other purposes of making a
27 refund of members' contributions, and for all other purposes
28 of this and other laws, in the same manner and to the same
29 extent as member contributions made prior to the effective
30 date of this subsection. The intent of this subsection is to
31 comply with section 414(H)(2) of the Internal Revenue Code.

1 (18) Internal Revenue Code limits.--
2 (a) In no event may a member's annual benefit exceed
3 \$120,000, adjusted for cost of living in accordance with
4 Internal Revenue Code ("IRC") Section 415(d).
5 (b) If a member has less than 10 years of service with
6 the City, the applicable limitation in paragraph (a) shall be
7 reduced by multiplying such limitation by a fraction, not to
8 exceed 1. The numerator of such fraction shall be the number
9 of years, or part thereof, of service with the City; the
10 denominator shall be 10 years.
11 (c) For purposes of this subsection, "annual benefit"
12 means a benefit payable annually in the form of a straight
13 life annuity with no ancillary or incidental benefits and with
14 no member or rollover contributions. To the extent that
15 ancillary benefits are provided, the limits set forth in
16 paragraph (a) shall be reduced actuarially, using an interest
17 rate assumption equal to the greater of 5 percent or the rate
18 being used for actuarial equivalence, to reflect such
19 ancillary benefits.
20 (d) If distribution of retirement benefits begins
21 before age 62, the dollar limitation as described in paragraph
22 (a) shall be reduced using an interest rate assumption equal
23 to the greater of 5 percent or the interest rate used for
24 actuarial equivalence; however, retirement benefits shall not
25 be reduced below \$75,000 if payment of benefits begins at or
26 after age 55, and not below the actuarial equivalent of
27 \$75,000 if payment of benefits begins before age 55. For a
28 member with 15 or more years of service with the City, the
29 reductions described above shall not reduce such member's
30 benefit below \$50,000, adjusted for cost of living in
31 accordance with IRC Section 415(d), but only for the year in

1 which such adjustment is effective. If retirement benefits
2 begin after age 65, the dollar limitation of paragraph (a)
3 shall be increased actuarially by using an interest assumption
4 equal to the lesser of 5 percent or the rate used for
5 actuarial equivalence.

6 (e) Compensation in excess of limitations set forth in
7 Section 401(a)(17) of the Internal Revenue Code shall be
8 disregarded. The limitation on compensation for an eligible
9 employee shall not be less than the amount which was allowed
10 to be taken into account hereunder as in effect on July 1,
11 1993. "Eligible employee" is an individual who was a member
12 before the first plan year beginning after December 31, 1995.

13 (19) Required distributions.--In accordance with IRC
14 Section 401(9)(C), any and all benefit payments shall begin by
15 the later of:

16 (a) April 1 of the calendar year following the
17 calendar year of the member's retirement date; or

18 (b) April 1 of the calendar year following the
19 calendar year in which the employee attains age 70 1/2.

20 (20) Miscellaneous requirements.--

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

28 (b) The City may not offset any part of its required
29 annual contribution by the Fund's assets except as determined
30 in an actuarial valuation, the report for which is determined
31

1 to be state accepted pursuant to part VII of chapter 112,
2 Florida Statutes.

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

6 (d) False or misleading statements made to obtain
7 retirement benefits prohibited.--

8 1. It is unlawful for a person to willfully and
9 knowingly make, or cause to be made, or to assist, conspire
10 with, or urge another to make, or cause to be made, any false,
11 fraudulent, or misleading oral or written statement or to
12 withhold or conceal material information to obtain any benefit
13 under this plan.

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

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

26 (21) Rollover distributions.--

27 (a) This subsection applies to distributions made on
28 or after January 1, 1993. Notwithstanding any provision of the
29 Plan to the contrary that would otherwise limit a
30 distributee's election under this subsection, a distributee
31 may elect, at the time and in the manner prescribed by the

1 Board of Trustees, to have any portion of an eligible rollover
2 distribution paid directly to an eligible retirement plan
3 specified by the distributee in a direct rollover.

4 (b)1. "Eligible rollover distribution" is any
5 distribution of all or any portion of the balance to the
6 credit of the distributee, except that an eligible rollover
7 does not include any distribution that is one of a series of
8 substantially equal periodic payments (not less frequently
9 than annually) made for the life (or life expectancy) of the
10 distributee or the joint lives (or joint life expectancies) of
11 the distributee and the distributee's designated beneficiary,
12 or for a specified period of 10 years or more; any
13 distribution to the extent such distribution is required under
14 section 401(a)(9) of the Code; and the portion of any
15 distribution that is not includable in gross income.

16 2. "Eligible retirement plan" is an individual
17 retirement account described in section 408(a) of the Code, an
18 individual retirement annuity described in section 408(b) of
19 the Code, an annuity plan described in section 403(a) of the
20 Code, or a qualified trust described in section 401(a) of the
21 Code that accepts the distributee's eligible rollover
22 distribution. However, in the case of an eligible rollover
23 distribution to the surviving spouse, an "eligible retirement
24 plan" is an individual retirement account or individual
25 retirement annuity.

26 3. "Distributee" includes an employee or former
27 employee. In addition, the employee's or former employee's
28 surviving spouse and the employee's or former employee's
29 spouse or former spouse who is entitled to payment for alimony
30 and child support under a domestic relations order determined
31

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

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

5 (22) Rollovers from qualified plans.--

6 (a) A member may roll over all or part of his or her
7 assets in another qualified plan to his or her chapter 175,
8 Florida Statutes, share account, provided all of the following
9 requirements are met:

10 1. Some or all of the amount distributed from the
11 other plan is rolled over to this plan no later than the 60th
12 day after distribution was made from the plan or, if
13 distributions are made in installments, no later than the 60th
14 day after the last distribution was made.

15 2. The amount rolled over to the share account does
16 not include any amounts contributed by the member to the plan
17 on a posttax basis.

18 3. The rollover is made in cash.

19 4. The member certifies that the distribution is
20 eligible for a rollover.

21 5. Amounts which the Trustee accepts as a rollover to
22 this Fund shall, along with any earnings allocated to the
23 Trustee, be fully vested at all times.

24
25 The rollover may also be made to this plan from an individual
26 retirement account qualified under Code Section 408 when the
27 individual retirement was merely used as a conduit for funds
28 from another qualified plan and the rollover is made in
29 accordance with the rules provided in subparagraphs 1.-5.

30 Amounts rolled over may be segregated from other Fund assets.

31 The Trustee shall separately account for gains, losses, and

1 administrative expenses on these rollovers as provided for in
2 paragraphs (5)(d) and (j). In addition, the Fund may accept
3 the direct transfer of a member's benefits from another
4 qualified retirement plan. The Fund shall account for direct
5 transfers in the same manner as a rollover and shall obtain
6 certification from the member that the amounts are eligible
7 for a rollover or direct transfer to this Fund.

8 (b) Transfer of accumulated leave.--

9 1. Members eligible to receive accumulated sick leave,
10 accumulated vacation leave, or any other accumulated leave
11 payable upon separation shall have the leave transferred to
12 the Fund up to the amount permitted by law. Any additional
13 amounts shall be paid directly to the member. Members on whose
14 behalf leave has been transferred may elect one of the
15 following options within 30 days after separation. Members
16 failing to elect a distribution option within 30 days after
17 separation shall be deemed to have elected the option set
18 forth in sub-subparagraph b.:

19 a. To receive a lump sum equal to the transferred
20 leave balance;

21 b. To maintain the entire amount of the transferred
22 leave balance in the DROP or share account; or

23 c. To purchase additional service credit as may be
24 permitted by the Code. If the leave balance exceeds the cost
25 of the service credit purchased, the balance shall be paid to
26 the member in a lump sum.

27 2. If a member on whose behalf the City makes a
28 transferred leave balance to the Plan dies after retirement or
29 other separation but before making an election as provided, or
30 after making an election but before any distribution is made,
31 the election option shall be void. In such an event, any

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

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

13 (23) Actuarial assumptions.--The following actuarial
14 assumptions shall be used for all purposes in connection with
15 this Fund, effective October 1, 1998:

16 (a) The period for amortizing current, future, and
17 past actuarial gains or losses shall be 20 years.

18 (b) The assumed investment rate of return shall be
19 8.25 percent.

20 (24) Prior firefighter service.--Unless otherwise
21 prohibited by law, the years, or fractional parts of years,
22 that a member previously served as a firefighter with the City
23 during a period of employment and for which accumulated
24 contributions were withdrawn from the fund, or the years, and
25 fractional parts of years, that a member served as a
26 firefighter for this or any other municipal, county, or state
27 fire department or district or any time served in the military
28 service of the Armed Forces of the United States shall be
29 added to the years of credited service, provided that the
30 member contributes to the fund the sum that would have been
31 contributed, based on the member's salary and the employee

1 contribution rate in effect at the time that the credited
2 service is requested, had the member been a member of this
3 system for the years, or fractional parts of years, for which
4 the credit is requested, plus the amount actuarially
5 determined, such that the crediting of service does not result
6 in any cost to the fund, plus payment of costs for all
7 professional services rendered to the board in connection with
8 the purchase of years of credited service.

9 (a) Payment by the member of the required amount may
10 be made within 6 months after the request for credit and in
11 one lump sum payment, or the member may buy back this time
12 over a period equal to the length of time being purchased or 5
13 years, whichever is greater, at an interest rate which is
14 equal to the Fund's actuarial assumption. A member may request
15 to purchase some or all years of service. No credit shall be
16 given for any service until all years of service that are to
17 be repurchased have been repurchased.

18 (b) The credit purchased under this section shall
19 count for all purposes, except vesting.

20 (c) In no event, however, may credited service be
21 purchased pursuant to this section for prior service with any
22 other municipal, county, or state fire department or district,
23 if such prior service forms or will form the basis of a
24 retirement benefit or pension from another retirement system
25 or plan.

26 (d) In the event that a member who is in the process
27 of purchasing service suffers a disability and is awarded a
28 benefit from the plan, the member shall not be required to
29 complete the buyback. However, contributions made prior to the
30 date the disability payment begins will be retained by the
31 Fund.

1 (e) If a member who has either completed the purchase
2 of service or is in the process of purchasing service
3 terminates before vesting, the member's contributions shall be
4 refunded, including the buyback contributions.

5 (f) A request to purchase service may be made at any
6 time during the course of employment; however, the buyback is
7 a one-time opportunity.

8 Section 2. All special laws and parts of special laws,
9 ordinances, or regulations, insofar as they are in conflict or
10 inconsistent with the provisions of this act, are repealed.

11 Section 3. This act shall take effect upon becoming a
12 law.

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