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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:

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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, Florida.
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, 2001, "salary," for the
19 purpose of pension contributions, shall be defined as payments
20 made to a firefighter by the City for: regular hours worked;
21 step-up pay; longevity pay; all authorized leave time, which
22 includes compensatory time used, earned personal leave used,
23 emergency leave used, sick leave used, sick leave pay bank
24 used, vacation time used, holiday time used, emergency leave,
25 bereavement leave, and administrative leave; certification
26 pay, which includes paramedic, hazardous material technician,
27 special operations, dive rescue, fire service instructor, fire
28 inspector, and SWAT certification pay; fire inspector standby
29 pay; educational bonus incentive; pay received from the City
30 during military training; and sick leave conversion when such
31 leave is converted during the course of active employment. The

1 definition of "salary" specifically excludes any lump sum
2 payments for accumulated leave such as that received upon
3 final payoff. Employees who are specifically excluded from
4 bargaining unit recognition as set forth in Article 2, but who
5 are members of the West Palm Beach Firefighters Pension Fund,
6 shall continue to make contributions on management incentive
7 benefits. This definition of compensation shall not include
8 any duty employment that is performed for other than the City
9 of West Palm Beach per Article 31, Salary Plan.

10 17. "Service," "credited service," or "service credit"
11 means the total number of years, and fractional parts of
12 years, of employment of any member in the employ of the
13 Department, omitting intervening years and fractional parts of
14 years of service when the member was not employed by the City.
15 However, no member shall receive credit for years, or
16 fractional parts of years, of service for which the member has
17 withdrawn his or her contributions to the Fund, unless the
18 member repays into the Fund the contributions withdrawn, with
19 interest, within 60 months after reemployment. Further, a
20 member may voluntarily leave his or her contributions in the
21 Fund for a period of 5 years after leaving the employ of the
22 Department, pending the possibility of his or her being
23 rehired by the Department and remaining employed for a period
24 of not less than 3 years, without losing credit for the time
25 he or she has participated actively as a firefighter. If he or
26 she does not remain employed for a period of at least 3 years
27 as a firefighter with the Department upon reemployment, within
28 5 years his or her contributions shall be returned without
29 interest in accordance with paragraph (5)(i). In determining
30 the aggregate number of years of service of any member, the
31 time spent in the military service of the United States or

1 United States Merchant Marine by the member on leave of
2 absence from the Department for such reason shall be added to
3 the years of service, provided such time shall not exceed 5
4 years. Further, to receive credit for such service the member
5 must return to employment as a firefighter of the City within
6 1 year after the date of release from such active service.

7 (b) Gender and number.--The masculine gender includes
8 the feminine, and words of the singular with respect to
9 persons shall include the plural and vice versa.

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

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

25 2. Two full-time firefighters shall be elected by a
26 majority of the firefighters who are members of the Fund.
27 Elections shall be held under such reasonable rules and
28 regulations as the Board shall from time to time adopt. Each
29 member-trustee shall serve as a trustee for a period of 2
30 years, unless he or she sooner ceases to be a firefighter in
31 the employ of the Department, whereupon the members shall

1 choose a successor in the same manner as the original
2 appointment. Each member-trustee may succeed himself or
3 herself as trustee.

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

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

30 (e) Board meetings; quorum; procedures.--The Board
31 shall hold meetings regularly, at least once in each quarter

1 year, and shall designate the time and place thereof. At any
2 meeting of the Board, three trustees shall constitute a
3 quorum. Each trustee shall be entitled to one vote on each
4 question before the Board and at least three concurring votes
5 shall be required for a decision by the Board at any of its
6 meetings. The Board shall adopt its own rules of procedure and
7 shall keep a record of its proceedings. All public records of
8 the Fund shall be kept and maintained as required by law. All
9 meetings of the Board shall be open to the public and shall be
10 held as required by law.

11 (f) Board chair.--The Board shall elect a chair from
12 among the trustees.

13 (g) Board secretary.--The Board shall elect a
14 secretary from among the trustees. The secretary shall keep a
15 complete minute book of the actions, proceedings, and hearings
16 of the Board.

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

1 presumptive illnesses as provided for in subsection (6). After
2 review, if further physical examination is required, such
3 examination shall be conducted at Board expense.

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

7 (2) Professional and clerical services.--

8 (a) Pension administrator.--The pension administrator
9 of the Fund shall be designated by the Board and shall carry
10 out its orders and directions.

11 (b) Legal counsel.--The City Attorney shall give
12 advice to the Board in all matters pertaining to its duties in
13 the administration of the Fund whenever requested, shall
14 represent and defend the Board as its attorney in all suits
15 and actions at law or in equity that may be brought against
16 it, and shall bring all suits and actions in its behalf that
17 may be required or determined by the Board. However, if the
18 Board so elects, it may employ independent legal counsel at
19 the Fund's expense for the purposes set forth in this act.

20 (c) Actuary.--The Board shall designate an enrolled
21 actuary, who shall be its technical advisor and who shall
22 perform such actuarial services as are required.

23 (d) Certified public accountant.--The Board shall
24 employ, at its expense, a certified public accountant to
25 conduct an independent audit of the Fund. The certified public
26 accountant shall be independent of the Board and the City.

27 (e) Additional professional, technical, or other
28 services.--The Board shall have the authority to employ such
29 professional, technical, or other advisors as required to
30 carry out the provisions of this act.

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1 (3) Sources of revenue.--The financing of the Fund
2 shall consist of the following sources of revenue:

3 (a) Taxes of insurance companies.--The moneys returned
4 to the City as provided by chapter 175, Florida Statutes,
5 shall be used to fund the share account benefit described in
6 paragraph (5)(j). The City shall not opt out of participation
7 in chapter 175, Florida Statutes, or any similar statutory
8 enactment unless exigent circumstances exist, such as the
9 bankruptcy of the City or changes or amendments to the statute
10 regarding extra benefits by the Legislature. If any statutory
11 changes are made by the Legislature, the City and the Board
12 may renegotiate the impact of such changes, if necessary.

13 (b) Member contributions.--The member shall contribute
14 6.45 percent of his or her salary to the Fund, which shall be
15 deducted each pay period from the salary of each member in the
16 Department. Effective the first full payroll period after
17 January 1, 2002, the member shall contribute 7.85 percent of
18 his or her salary to the Fund, which shall be deducted each
19 pay period from the salary of each member in the Department.
20 Effective the first full payroll period after October 1, 2002,
21 the member shall contribute 8.85 percent of his or her salary
22 to the Fund, which shall be deducted each pay period from the
23 salary of each member in the Department. Effective the first
24 full payroll period after October 1, 2003, the member shall
25 contribute 9.85 percent of his or her salary to the Fund,
26 which shall be deducted each pay period from the salary of
27 each member in the Department. The contribution increase over
28 6.85 percent is to be used to purchase eligibility for
29 participation in the postretirement health insurance benefits.

30 (c) City contributions.--The City shall contribute to
31 the Fund annually an amount which, together with the

1 contributions from the members and other income sources as
2 authorized by law, will be sufficient to meet the normal cost
3 of the Fund and to fund the actuarial deficiency over a period
4 of not more than 40 years, provided that the net increase, if
5 any, in unfunded liability of the Fund arising from
6 significant amendments or other changes shall be amortized
7 within 30 plan years.

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

10 (e) Interest from deposits.--All accretions to the
11 Fund by way of interest or dividends on bank deposits or
12 otherwise.

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

15 (4) Custodian of funds.--All moneys and securities of
16 the Fund may be deposited with the cash management coordinator
17 of the City, acting in a ministerial capacity only, who shall
18 be bonded and shall be liable in the same manner and to the
19 same extent as he or she is liable for the safekeeping of
20 funds for the City. However, any funds and securities so
21 deposited with the cash management coordinator shall be kept
22 in a separate fund by the cash management coordinator or
23 clearly identified as funds and securities of the Fund. In
24 lieu thereof, the Board shall deposit the funds and securities
25 in a qualified public depository designated by the Board. The
26 cash management coordinator or other depository shall receive
27 all moneys due said Fund from all sources whatsoever. All tax
28 revenue received pursuant to the provisions of chapter 175,
29 Florida Statutes, shall be deposited into the Fund no more
30 than 5 days after receipt. Member contributions withheld by
31

1 the City on behalf of a member shall be deposited into the
2 Fund immediately.

3 (a) Disbursements from the Fund.--The Board may issue
4 drafts upon the Fund pursuant to this act and rules and
5 regulations prescribed by the Board, provided that such drafts
6 shall be issued in accordance with generally accepted
7 accounting procedures, American Institute of Certified Public
8 Accountants guidelines, and rules of the State of Florida
9 Auditor General. All such drafts shall be consecutively
10 numbered, signed by the chair and secretary, and each draft
11 shall, upon its face, state the purpose for which it is drawn.
12 For this purpose, the chair and secretary shall be bonded. The
13 Board shall retain such drafts when paid, as permanent
14 vouchers for disbursements made, and no moneys shall be
15 otherwise drawn from the Fund. Payments from the Fund shall be
16 made only upon a specific or general motion or resolution
17 previously adopted by the Board authorizing such payment or
18 payments.

19 (b) Investment of moneys.--The Board shall have the
20 power and authority to invest and reinvest the moneys of the
21 Fund, and to hold, purchase, sell, assign, transfer, and
22 dispose of any securities and investments held in said Fund.
23 The aim of the investment policies shall be to preserve the
24 integrity and security of Fund principal, to maintain a
25 balanced investment portfolio, to maintain and enhance the
26 value of Fund principal, and to secure the maximum total
27 return on investments that is consonant with safety of
28 principal, provided that such investments and reinvestments
29 shall be limited to the following:

30 1. Direct obligations of the United States Government
31 or any agency thereof and debentures and other evidences of

1 indebtedness which are fully guaranteed by the United States
2 Government or any agency thereof for the payment of principal
3 and interest.

4 2. Direct obligations of the State of Florida.

5 3. In debt securities, preferred and common stocks and
6 mutual fund shares subject to the limitations set forth in
7 this section.

8 4. In time or savings accounts of a national bank, a
9 state bank insured by the Bank Insurance Fund, a savings and
10 loan association to the extent that deposits are guaranteed by
11 the Savings Association Insurance Fund which is administered
12 by the Federal Deposit Insurance Corporation, or a state or
13 federally chartered credit union whose share accounts are
14 insured by the National Credit Union Share Insurance Fund.

15 5. Of the total Fund principal in the pension or
16 retirement system, including the amounts deposited in banks or
17 associations, the total thereof invested in preferred stocks
18 shall not aggregate more than 5 percent, and the total amount
19 thereof invested in common stocks and mutual fund shares shall
20 not aggregate more than 70 percent. Percentages shall be based
21 on market value at the end of each reporting period (September
22 30).

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

25 a. All corporate and association securities and mutual
26 fund shares shall be issued by a corporation or other legal
27 person incorporated or otherwise organized within the United
28 States and domiciled therein to the extent required by section
29 175.071(1)(b), Florida Statutes.

30 b. Not more than 10 percent of the total fund
31 principal at market value shall be invested in any one issuing

1 company other than obligations of the United States or an
2 agency thereof.

3 c. All bonds, stocks, or other evidence of
4 indebtedness issued or guaranteed by a corporation shall be
5 listed on any one or more of the recognized national stock
6 exchanges and, in the case of bonds only, shall hold a rating
7 in one of the four highest classifications by a major rating
8 service. Said bonds and preferred stocks that are convertible
9 into common stocks shall be considered common stocks and the
10 purchase of same shall be limited by the provisions of
11 subparagraph 5.

12 d. The Board shall engage the services of professional
13 investment counsel to assist and advise the trustees in the
14 performance of their duties.

15 e. At least once every 3 years, the Board shall retain
16 an independent consultant professionally qualified to evaluate
17 the performance of its professional money manager or
18 investment counsel. The independent consultant shall make
19 recommendations to the Board at its next regularly scheduled
20 meeting.

21 (c) Maximum of cash not invested.--No more than 10
22 percent of the assets of the Fund shall be held in cash or in
23 noninterest-bearing deposits.

24 (d) Administrative expenses.--The administrative
25 expenses of the Fund shall be paid by the Fund.

26 (e) Restrictions on the use of assets of Fund.--The
27 assets of the Fund shall be used only for the payment of
28 benefits and other disbursements authorized by this act and
29 shall be used for no other purpose.

30 (5) Service pension.--

31 (a) Normal retirement.--

1 1. Any member whose entry or reentry in the employment
2 of the Department occurs after April 30, 1959, who has
3 attained age 50 years and who has acquired 15 or more years of
4 service credit or, effective for retirements after January 20,
5 2002, has 25 years of service credit without regard to age
6 shall, upon application filed with the Board, be retired and
7 shall be entitled to a monthly pension for the remainder of
8 his or her life equal to the greater of the following, as
9 applicable:

10 a. For a member who is actively employed by the
11 Department on or after October 1, 1998, or who is part of the
12 DROP on or after October 1, 1998, 3 percent of his or her
13 final average salary multiplied by the number of years, and
14 fraction of a year, of service credit earned from and after
15 October 1, 1982, plus 2-1/2 percent of his or her final
16 average salary multiplied by the number of years, and fraction
17 of a year, of service credit earned prior to October 1, 1982,
18 provided that in no case shall the total monthly pension
19 payable to any such member exceed 78 percent of his or her
20 final average salary;

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

28 c. The sum of the following:

29 (I) Two and one-half percent of final average salary
30 multiplied by the number of years, and fraction of a year, of
31 service credit to a maximum of 26 years of service, and 2

1 percent of his or her final average salary multiplied by the
2 number of years, and fraction of a year, in excess of 26 years
3 of service, for all years of service earned through September
4 30, 1988; and

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

8 2. Any member whose entry or reentry in the employment
9 of the Department occurs after April 30, 1959, and prior to
10 July 1, 1977, may elect upon his or her retirement to receive
11 a pension under the provisions of this subparagraph in lieu of
12 subparagraph 1., as follows: Any member who has attained age
13 55 years and who has acquired 20 or more years of service
14 credit shall, upon his or her application filed with the
15 Board, be retired and, when so retired, shall be entitled to a
16 monthly pension for the remainder of his or her life equal to
17 the greater of the following:

18 a. Two percent of final average salary multiplied by
19 the number of years, or fraction of a year, of service credit
20 not to exceed 25 years, provided that in no case shall the
21 total monthly pension payable to any member exceed 65 percent
22 of his or her final average salary; or

23 b. The sum of the following:

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

31

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

4
5 The 3-percent benefit accrual factor in sub-subparagraph 1.a.
6 is contingent on and subject to the adoption and maintenance
7 of the assumptions set forth in subsection (22). If such
8 assumptions are modified by legislative, judicial, or
9 administrative agency action, and the modification results in
10 increased City contributions to the Pension Fund, the
11 3-percent accrual factor in sub-subparagraph 1.a. shall be
12 automatically decreased prospectively, from the date of the
13 action, to completely offset the increase in City
14 contributions. However, in no event shall the benefit accrual
15 factor in sub-subparagraph 1.a. be adjusted below 2.5 percent.
16 To the extent that the benefit accrual factor is less than 3
17 percent, the supplemental pension distribution calculation
18 under paragraph (d) shall be adjusted for employees who retire
19 on or after October 1, 1998, and those employees who were
20 members of the DROP on October 1, 1998. The adjustment shall
21 be to decrease the minimum return of 8.25 percent needed to
22 afford the supplemental pension distribution, when the amount
23 of the reduction is zero if an employee has been credited with
24 16 or more years with the 3-percent benefit accrual factor or
25 1.25 percent if an employee has been credited with no more
26 than a 2.5-percent benefit accrual factor. If an employee has
27 been credited with less than 16 years at the 3-percent benefit
28 accrual factor, then the accumulated amount over 2.5 percent
29 for each year of service divided by .5 percent divided by 16
30 subtracted from 1 multiplied by 1.25 percent is the reduction
31 from 8.25 percent. An example of the calculation of the

1 minimum return for supplemental pension distribution as
2 described above is set forth in Appendix B to the collective
3 bargaining agreement between the City of West Palm Beach and
4 the West Palm Beach Association of Firefighters, Local
5 727-IAFF, October 1, 1998-September 30, 2001.

6 (b) Vested deferred retirement.--A member who leaves
7 the employ of the Department with 10 or more years of credited
8 service who is not eligible for any other retirement benefit
9 under this act shall be entitled to the applicable pension
10 provided for in paragraph (a) or paragraph (c). Payment of
11 this pension shall begin the first day of the calendar month
12 following the month in which the member's application is filed
13 with and accepted by the Board on or after attainment of age
14 50 years. If applicable, the amount of the pension shall be
15 determined in accordance with paragraph (c).

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

31 (d) Supplemental pension distribution.--

1 1.a. The actuary for the Pension Fund shall determine
2 the rate of investment return earned on Pension Fund assets
3 during the 12-month period ending each September 30. The rate
4 determined shall be the rate reported in the most recent
5 actuarial report submitted pursuant to part VII of chapter
6 112, Florida Statutes.

7 b. The actuary for the Pension Fund shall determine
8 the actuarial present value, as of September 30, of future
9 pension payments to eligible persons, as described in
10 subparagraph 3., who are then being paid a pension. The
11 actuarial present values shall be calculated using an interest
12 rate of 7 percent per year compounded yearly and a mortality
13 table as approved by the Board of Trustees and as used in the
14 most recent actuarial report submitted pursuant to part VII of
15 chapter 112, Florida Statutes.

16 c. A distribution amount shall be determined as of
17 each September 30. For distributions made after October 1,
18 1998, there shall be two different calculations to determine
19 the distribution amount. For those employees who retire on or
20 after October 1, 1998, or who are part of the DROP on or after
21 October 1, 1998, the distribution amount shall be equal to
22 factor (i) for each applicable member multiplied by the sum of
23 factor (ii) and the positive difference, if any, between
24 factor (iii) and 8.25 percent. For those employees who have
25 retired before October 1, 1998, except as provided in this
26 sub-subparagraph, the distribution amount shall be equal to
27 factor (i) for each applicable member multiplied by the sum of
28 factor (ii) and the positive difference, if any, between
29 factor (iii) and 7 percent. For purposes of both calculations,
30 factor (i) is the actuarial present value determined in
31 sub-subparagraph 1.b. for the respective group. Factor (ii) is

1 one-half of the investment return rate in sub-subparagraph
2 1.a. in excess of 9 percent. Factor (iii) is the rate of
3 investment return in sub-subparagraph 1.a., not to exceed 9
4 percent. The distribution amount shall not exceed accumulated
5 net actuarial experience from all pension liabilities and
6 assets. If the net actuarial experience is favorable,
7 cumulatively, commencing with the experience for the year
8 ended September 30, 1985, after offset for all prior
9 supplemental distributions, the supplemental distribution may
10 be made. If the net actuarial experience is unfavorable,
11 cumulatively, commencing with the experience for the year
12 ended September 30, 1985, after offset for all prior
13 supplemental distributions, no supplemental distribution may
14 be made, and the City must amortize the loss until it is
15 offset by cumulative favorable experience.

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

26 2. The Board of Trustees shall determine annually if
27 there is to be a supplemental pension distribution. The
28 supplemental pension distribution is that portion of the
29 distribution amount, as defined in sub-subparagraph 1.c., to
30 be distributed to eligible persons.

31 3. Eligible persons are:

- 1 a. Pensioners.
2 b. Surviving spouses.
3 c. Surviving dependent children.
4 d. Surviving dependent parents.
5 e. Pensioners' estates for the year following death
6 only.

7
8 Eligible persons are initially eligible if they have been in
9 receipt of a pension for at least 1 year on the first
10 distribution date following their retirement. A survivor
11 beneficiary of a deceased retired member shall be considered
12 to have been in receipt of a pension for at least 1 year if at
13 least 12 monthly pension payments have been made on account of
14 the retirement. A surviving spouse may count the retirement
15 period, if any, of the deceased member toward the 1-year
16 requirement. Surviving spouses, children, and parents and
17 retired members who receive pension adjustments under the
18 prior escalator clause are not eligible for the supplemental
19 pension distribution.

20 4. The supplemental pension distribution dates shall
21 be the April 1 following the effective date of this subsection
22 and each April 1 thereafter. Each eligible person shall be
23 paid his or her allocated portion of the applicable
24 supplemental pension distribution amount from the preceding
25 September 30. A pensioner's estate is entitled to a pro rata
26 share of the deceased retiree's supplemental pension
27 distribution based on the number of months that the deceased
28 retiree received a pension during the year ending the
29 September 30 prior to the pensioner's death after initial
30 eligibility.

31

1 5. Each supplemental pension distribution amount shall
2 be allocated among the eligible persons in the proportion that
3 an eligible person's supplemental pension distribution points
4 bears to the aggregate amount of supplemental pension
5 distribution points of all eligible persons. An eligible
6 person shall be credited with supplemental pension
7 distribution points as follows:

8 a. Three and eighty-five hundredths of a point
9 multiplied by the service credit of the member at the time of
10 retirement or prior to death; however, in the computation of
11 the supplemental pension distribution due the in-line-of-duty
12 pensioner, the maximum service credit of 26 years shall be
13 used.

14 b. Maximum service credit shall be 26 years.

15 c. Allocations for surviving spouses and surviving
16 dependent children who are eligible to receive supplemental
17 pension distributions shall be 75 percent of the years of
18 service earned by the pensioner. Allocations for duty death
19 beneficiaries (surviving spouse and surviving children) shall
20 be based upon 75 percent of 26 years of service.

21 (e) Payment of benefits.--

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

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

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

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

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

11 2. Unmarried member.--The normal form of retirement
12 benefit for an unmarried member without a dependent child or
13 children or parent or parents shall be a 10-year certain
14 benefit. This benefit shall pay monthly benefits for the
15 member's lifetime. In the event the member dies after his or
16 her retirement but before receiving retirement benefits for a
17 period of 10 years, the same monthly benefit shall be paid to
18 the beneficiary or beneficiaries as designated by the member
19 for the balance of such 10-year period or, if no beneficiary
20 is designated, to heirs at law, or estate of the member, as
21 provided in section 175.181, Florida Statutes.

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

23 1.a. In the event of normal, early, or disability
24 retirement, in lieu of the normal form of retirement income
25 payable as specified in paragraph (a), paragraph (b),
26 paragraph (c), or subsection (6) and in lieu of the
27 beneficiary benefits as specified in subsection (7), a member,
28 upon written request to the Board and subject to the approval
29 of the Board, may elect to receive a retirement income of
30 equivalent actuarial value payable in accordance with one of
31 the following options:

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

4 (II) Joint and survivor option.--A retirement income
5 of a modified monthly amount, payable to the member during the
6 joint lifetime of the member and a dependent joint pensioner
7 designated by the member, and following the death of either of
8 them, 100 percent, 75 percent, 66-2/3 percent, or 50 percent
9 of such monthly amounts, payable to the survivor for the
10 lifetime of the survivor.

11 b. The member, upon electing any option of this
12 paragraph, shall designate the joint pensioner or beneficiary
13 or beneficiaries to receive the benefit, if any, payable in
14 the event of his or her death, and will have the power to
15 change such designation from time to time; but any such change
16 shall be deemed a new election and shall be subject to
17 approval by the Board. Such designation shall name a joint
18 pensioner or one or more primary beneficiaries where
19 applicable. If a member has elected an option with a joint
20 pensioner or beneficiary and his or her retirement income
21 benefits have commenced, he or she may thereafter change the
22 designated joint pensioner or beneficiary only twice.

23 c. The consent of a member's joint pensioner or
24 beneficiary to any such change shall not be required. However,
25 the spouse of a married member must consent to any election to
26 waive a joint and survivor benefit by signing the election
27 form before a notary public. The spouse's written consent must
28 acknowledge the effect of such a waiver. Consent of the spouse
29 shall not be required if the spouse cannot be located, or for
30 such other circumstances as may be prescribed by the Secretary

31

1 of the Treasury of the United States. Any consent by a spouse
2 shall be effective only with respect to such spouse.

3 d. The Board may request such evidence of the good
4 health of the joint pensioner that is being added as it may
5 require; and the amount of the retirement income payable to
6 the member upon the designation of a new joint pensioner shall
7 be actuarially redetermined, taking into account the age and
8 sex of the former joint pensioner, the new joint pensioner,
9 and the member. Each such designation shall be filed with the
10 Board. In the event that no designated beneficiary survives
11 the member, such benefits as are payable in the event of the
12 death of the member subsequent to his or her retirement shall
13 be paid as provided in subparagraph (h)2.

14 2. Retirement income payments shall be made under the
15 option elected in accordance with the provisions of this
16 paragraph and shall be subject to the following limitations:

17 a. If a member dies prior to his or her normal
18 retirement date or early retirement date, whichever first
19 occurs, retirement benefits shall be paid in accordance with
20 subsection (7).

21 b. If the designated beneficiary or beneficiaries or
22 joint pensioner dies before the member's retirement, the
23 option elected shall be canceled automatically and a
24 retirement income of the normal form and amount shall be
25 payable to the member upon the member's retirement as if the
26 election has not been made, unless a new election is made in
27 accordance with the provisions of this paragraph or a new
28 beneficiary is designated by the member prior to retirement.

29 c. If a member continues in the employ of the
30 Department after meeting the age and service requirements set
31 forth in paragraph (a) or paragraph (c) and dies prior to the

1 member's actual retirement, and while an option made pursuant
2 to this subparagraph is in effect, monthly retirement income
3 payments shall be paid, under the option, to a beneficiary or
4 beneficiaries designated by the member in the amount or
5 amounts computed as if the member has retired under the option
6 on the date on which the member's death occurred.

7 3. No member may make any change in his or her
8 retirement option after the date of cashing or depositing the
9 first retirement check.

10 (h) Designation of beneficiary.--

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

29 2. Absence or death of beneficiary.--If a deceased
30 member fails to name a beneficiary in the manner prescribed in
31 subparagraph 1., or if the beneficiary or beneficiaries named

- 1 by a deceased member predecease the member, the beneficiary
2 benefits, if any, which may be payable with respect to such
3 deceased member may be paid, in the discretion of the Board
4 to:
- 5 a. The spouse or dependent child or children of the
6 member;
- 7 b. The dependent living parent or parents of the
8 member; or
- 9 c. The estate of the member.
- 10 (i) Refund of contributions.--In the event a member
11 leaves the employ of the Department or dies with less than 10
12 years of credited service, and no service pension, disability
13 pension, or beneficiary benefit is payable, the contributions
14 made by him or her to the Fund shall be refunded, without
15 interest (less any disability payments paid to the member), to
16 the member or, in the event of death, to the beneficiary or to
17 the member's estate.
- 18 (j) Chapter 175, Florida Statutes, share accounts.--
- 19 1. Individual member accounts.--A separate account
20 shall be established and maintained in each member's name
21 effective on or after October 1, 1988.
- 22 2. Share account funding.--
- 23 a. Each individual member account shall be credited
24 with a pro rata share of all of the moneys received from
25 chapter 175, Florida Statutes, tax revenues in June 1988 and
26 thereafter.
- 27 b. In addition, any forfeitures as provided in
28 subparagraph 5. shall be credited to the individual member
29 accounts in accordance with the formula set forth in
30 subparagraph 3.
- 31 3. Annual allocation of accounts.--

1 a. Moneys shall be credited to each individual member
2 account in an amount directly proportionate to the number of
3 pay periods for which the member was paid compared to the
4 total number of pay periods for which all members were paid,
5 counting the pay periods in the calendar year preceding the
6 date for which chapter 175, Florida Statutes, tax revenues
7 were received.

8 b. At the end of each fiscal year (September 30), each
9 individual account shall be adjusted to reflect the earnings
10 or losses resulting from investment, as well as reflecting
11 costs, fees, and expenses of administration.

12 c. The investment earnings or losses credited to the
13 individual member accounts shall be in the same percentage as
14 are earned or lost by the total investment earnings or losses
15 of the Fund as a whole, unless the Board dedicates a separate
16 investment portfolio for chapter 175, Florida Statutes, share
17 accounts, in which case the investment earnings or losses
18 shall be measured by the investment earnings or losses of the
19 separate investment portfolio.

20 d. Costs, fees, and expenses of administration shall
21 be debited from the individual member accounts on a
22 proportionate basis, taking the cost, fees, and expenses of
23 administration of the Fund as a whole, multiplied by a
24 fraction, the numerator of which is the total assets in all
25 individual member accounts and the denominator of which is the
26 total assets of the Fund as a whole. The proportionate share
27 of the costs, fees, and expenses shall be debited from each
28 individual member account on a pro rata basis in the same
29 manner as chapter 175, Florida Statutes, tax revenues are
30 credited to each individual member account (i.e., based on pay
31 periods).

1 e. If the entire balance of the individual member
2 account is withdrawn before September 30 of any year, there
3 shall be no adjustment made to that individual member account
4 to reflect either investment earnings or losses or costs,
5 fees, and expenses of administration.

6 4. Eligibility for benefits.--Any member who
7 terminates employment with the City, upon the member's filing
8 an application with the Board, shall be entitled to 100
9 percent of the value of his or her individual member account,
10 provided the member meets any of the following criteria:

11 a. The member is eligible to receive a service pension
12 as provided in this subsection;

13 b. The member has 5 or more years of credited service
14 and is eligible to receive either:

15 (I) A nonduty disability pension as provided in
16 paragraph (6)(a); or

17 (II) Beneficiary benefits for nonduty death as
18 provided in paragraph (7)(a); or

19 c. The member has any credited service and is eligible
20 to receive either:

21 (I) A duty disability pension as provided in paragraph
22 (6)(c); or

23 (II) Beneficiary benefits for death in the line of
24 duty as provided in paragraph (7)(b).

25 5. Forfeitures.--Any member who has less than 10 years
26 of credited service and who is not eligible for payment of
27 benefits after termination of employment with the City shall
28 forfeit his or her individual member account. The amounts
29 credited to said individual member account shall be
30 redistributed to the other individual member accounts in the
31

1 same manner as chapter 175, Florida Statutes, tax revenues are
2 credited (i.e., based on pay periods).

3 6. Payment of benefits.--The normal form of benefit
4 payment shall be a lump sum payment of the entire balance of
5 the individual member account; or, upon the written election
6 of the member, upon a form prescribed by the Board, payment
7 may be made either by:

8 a. Installments.--The account balance shall be paid
9 out to the retirant in three equal payments paid over 3 years,
10 the first payment to be made upon approval of the Board; or

11 b. Annuity.--The account balance shall be paid out in
12 monthly installments over the lifetime of the member or until
13 the entire balance is exhausted. The monthly amount paid shall
14 be determined by the Fund's actuary in accordance with
15 selections made by the member in a form provided by the Board.

16 7. Death of a member.--If a member dies and is
17 eligible for benefits from the individual member account, the
18 entire balance of the individual member account shall be paid
19 in a lump sum to the beneficiaries designated in accordance
20 with paragraph (h). If a member fails to designate a
21 beneficiary or, if the beneficiary predeceases the member, the
22 entire balance shall be paid in a lump sum in the following
23 order:

24 a. To the spouse;

25 b. If there is no spouse or the spouse is not alive,
26 to the member's surviving child or children on a pro rata
27 basis;

28 c. If there are no children or no child is alive, to
29 the member's parent or parents; or

30 d. If no parent is alive, to the estate of the member.

31 (k) Deferred Retirement Option Plan (DROP).--

- 1 1. Eligibility to participate in the DROP.--
2 a. Any member who is eligible to receive an early or
3 normal retirement pension may participate in the DROP. Members
4 shall elect to participate by applying to the Board of
5 Trustees on a form provided for that purpose.
6 b. Election to participate shall be forfeited if not
7 exercised within the first 35 years of combined credited
8 service.
9 c. A member shall not participate in the DROP beyond
10 the time of attaining 37 years of service and the total years
11 of participation in the DROP shall not exceed 5 years. For
12 example:
13 (I) Members with 32 years of credited service at the
14 time of entry shall participate for only 5 years.
15 (II) Members with 33 years of credited service at the
16 time of entry shall participate for only 4 years.
17 (III) Members with 34 years of credited service at the
18 time of entry shall participate for only 3 years.
19 (IV) Members with 35 years of credited service at the
20 time of entry shall participate for only 2 years.
21 d. Upon a member's election to participate in the
22 DROP, he or she shall cease to be a member and shall no longer
23 accrue any benefits under the Pension Fund, except for the
24 benefits provided under paragraph (j) of this subsection,
25 chapter 175, Florida Statutes, share accounts. For all Fund
26 purposes, the member becomes a retirant, except that a DROP
27 participant shall continue to receive shares of the chapter
28 175, Florida Statutes, money in accordance with paragraph (j),
29 chapter 175, Florida Statutes, share accounts. The amount of
30 credited service and final average salary shall freeze as of
31 the date of entry into the DROP.

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

3 a. Monthly retirement benefits that would have been
4 payable had the member terminated employment with the
5 Department and elected to receive monthly pension payments
6 shall be paid into the DROP and credited to the retirant.
7 Payments into the DROP shall be made monthly over the period
8 the retirant participates in the DROP, up to a maximum of 60
9 months.

10 b. Payments to the DROP earn interest using the rate
11 of investment return earned on Pension Fund assets as reported
12 by the Fund's investment monitor. DROP assets are commingled
13 with the Pension Fund assets for investment purposes. However,
14 if a member does not terminate employment at the end of
15 participation in the DROP, interest credit shall cease on the
16 current balance and on all future DROP deposits.

17 c. No payments shall be made from the DROP until the
18 member terminates employment with the Department.

19 d. Upon termination of employment, participants in the
20 DROP shall receive the balance of the DROP account in
21 accordance with the following rules:

22 (I) Members may elect to receive payment upon
23 termination of employment or defer payment of the DROP until
24 the latest day under sub-sub-subparagraph (III).

25 (II) Payments shall be made in either:

26 (A) Lump sum.--The entire account balance shall be
27 paid to the retirant upon approval of the Board of Trustees.

28 (B) Installments.--The account balance shall be paid
29 out to the retirant in three equal payments paid over 3 years,
30 the first payment to be made upon approval of the Board of
31 Trustees.

1 (C) Annuity.--The account balance shall be paid out in
2 monthly installments over the lifetime of the member or until
3 the entire balance is exhausted. The monthly amount paid shall
4 be determined by the Fund's actuary in accordance with
5 selections made by the member in a form provided by the Board
6 of Trustees.

7 (III) Any form of payment selected by a member must
8 comply with the minimum distribution requirements of the IRC
9 401(A)(9), and are subject to the requirements of subsection
10 (19).

11 (IV) The beneficiary of the DROP participant who dies
12 before payments from DROP begin shall have the same right as
13 the participant in accordance with subsection (7).

14 3. Loans from the DROP.--

15 a. Availability of loans.--

16 (I) Loans are available to members only after
17 termination of employment, provided the member had
18 participated in the DROP for a period of 12 months.

19 (II) Loans may only be made from a member's own
20 account.

21 (III) There may be no more than one loan at a time.

22 b. Amount of loan.--

23 (I) Loans may be made up to a maximum of 50 percent of
24 account balance.

25 (II) The maximum dollar amount of a loan is \$50,000,
26 reduced by the highest outstanding loan balance during the
27 last 12 months.

28 (III) The minimum amount of a loan is \$5,000.

29 c. Limitation on loans.--Loans shall be made from the
30 amounts paid into the DROP and earnings thereon.

31 d. Term of the loan.--

- 1 (I) The loan must be for at least 1 year.
2 (II) The loan shall be no longer than 5 years.
3 e. Loan interest rate.--
4 (I) The interest rate shall be fixed at the time the
5 loan is originated for the entire term of the loan.
6 (II) The interest rate shall be equal to the lowest
7 prime rate published by the Wall Street Journal on the last
8 day of each calendar quarter preceding the date of the loan
9 application.
10 f. Defaults of loans.--
11 (I) Loans shall be in default if 2 consecutive months'
12 repayments are missed or if a total of 4 months' repayments
13 are missed.
14 (II) Upon default, the entire balance becomes due and
15 payable immediately.
16 (III) If a loan in default is not repaid in full
17 immediately, the loan may be canceled and the outstanding
18 balance treated as a distribution, which may be taxable.
19 (IV) Upon default of a loan, a member shall not be
20 eligible for additional loans.
21 g. Miscellaneous provisions.--
22 (I) All loans must be evidenced by a written loan
23 agreement signed by the member and the Board of Trustees. The
24 agreement shall contain a promissory note.
25 (II) A member's spouse must consent in writing to the
26 loan. The consent shall acknowledge the effect of the loan on
27 the member's account balance.
28 (III) Loans shall be considered general assets of the
29 Fund.
30 (IV) Loans shall be subject to administrative fees to
31 be set by the Board of Trustees.

- 1 4. After-tax contributions to the DROP.--
2 a. A member may make after-tax contributions to the
3 DROP. The maximum amount that may be contributed is the lesser
4 of:
5 (I) The IRS 415(c) limit.
6 (II) The amount allowable under IRC 401(m).
7 b. After-tax contributions to the DROP shall earn
8 interest in the same manner as set forth in sub-subparagraph
9 2.b.
10 c. Distributions to members or their beneficiaries of
11 after-tax contributions may be withdrawn at any time on or
12 after termination of employment. However, payments must be
13 made at least as promptly as required under subsection (19).
14 d. Loans shall not be made against after-tax
15 contributions.
16 (6) Disability pensions, medical examinations, return
17 to work, etc.--
18 (a) Nonduty disability requirements.--Any member with
19 5 or more years of service credit who is regularly employed in
20 the Department who becomes physically or mentally totally and
21 permanently disabled by illness, disease, or injury to perform
22 the duties of a firefighter shall, upon the member's
23 application to the Board, be retired with a pension provided
24 for in this paragraph, provided that after a medical
25 examination of the member made by or under the direction of a
26 medical committee, the medical committee reports to the Board,
27 in writing, whether:
28 1. The member is wholly prevented from rendering
29 useful and efficient service as a firefighter; and
30 2. The member is likely to remain so disabled
31 continuously and permanently.

1
2 The Board may admit and consider any other evidence that it
3 deems appropriate. The final decision as to whether a member
4 meets the requirements for a nonduty disability pension rests
5 with the Board and shall be based on competent substantial
6 evidence on the record as a whole.

7 (b) Nonduty disability pension benefits.--Upon
8 retirement on account of disability as provided in paragraph
9 (a), a member shall receive a disability pension computed
10 according to subparagraph (5)(a)1., notwithstanding that he or
11 she might not have attained age 50 years and might not have 15
12 or more years of service credit. Further, if the member has at
13 least 10 years of service credit, the disability pension shall
14 not be less than 25 percent of the member's average monthly
15 salary at the time of disability. A disability retiree may
16 select optional forms of benefits in accordance with paragraph
17 (5)(g).

18 (c) Duty disability requirements.--Any member who is
19 regularly employed in the Department and who becomes
20 physically or mentally totally and permanently disabled to
21 perform the duties of a firefighter by reason of an injury or
22 disease arising out of and in the course of the performance of
23 his or her duties as a firefighter in the employ of the City,
24 shall, upon his or her application to the Board, be retired
25 with a disability pension provided for in this paragraph,
26 provided that after a medical examination of the member made
27 by or under the direction of the medical committee, the
28 medical committee reports to the Board in writing, whether:

29 1. The member is wholly prevented from rendering
30 useful and efficient service as a firefighter; and
31

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

3
4 The Board shall admit and consider any other evidence that it
5 deems appropriate. Any condition or impairment of health of a
6 member caused by tuberculosis, hypertension, heart disease,
7 hepatitis, or meningococcal meningitis resulting in total
8 disability or death shall be presumed to have been accidental
9 and suffered in the line of duty unless the contrary is shown
10 by competent evidence, provided such member shall have
11 successfully passed a physical examination before entering
12 into such service, which examination failed to reveal any
13 evidence of such condition. In order to be entitled to the
14 presumption in the case of hepatitis, meningococcal
15 meningitis, or tuberculosis, the member must meet the
16 requirements of section 112.181, Florida Statutes. The final
17 decision as to whether a member meets the requirements for a
18 disability pension rests with the Board, based on competent
19 substantial evidence on the record as a whole.

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

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

25 2. The sum of the following:

26 a. Two and one-half percent of the member's final
27 average salary multiplied by the number of years, and fraction
28 of a year, of his or her service credit to a maximum of 26
29 years of service, and 2 percent of his or her final average
30 salary multiplied by the number of years, and fraction of a

31

1 year, in excess of 26 years of service, for all years of
2 service earned through September 30, 1988; and

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

6 (e) Medical committee.--The medical committee provided
7 for in this subsection shall consist of no less than two
8 qualified health professionals, one of whom shall be
9 designated by the Board and one by the member. If deemed
10 necessary by the Board, a third qualified health professional,
11 selected by the two committee members previously designated,
12 may be named to the medical committee. The medical committee
13 shall report to the Board the existence and degree of
14 permanent physical impairment of the member, if any, based
15 upon the most recent edition of the American Medical
16 Association's Guide to the Evaluation of Permanent Impairment,
17 if applicable.

18 (f) Exclusions from disability pensions.--No
19 disability pension shall be payable, either as a duty
20 disability pension or as a nonduty disability pension, if the
21 disability is a result of:

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

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

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

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

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1 5. Injury or disease sustained by the member while
2 working for anyone other than the City and arising out of such
3 employment; or

4 6. Injury or disease sustained by the member before
5 coming to work for the City. This exclusion applies to duty
6 disability applications only.

7 (g) Payment of disability pensions.--Monthly
8 disability retirement benefits shall be payable as of the date
9 the Board determines that the member was entitled to a
10 disability pension; however, the first payment shall actually
11 be paid on the first day of the first month after the Board
12 determines such entitlement. Any portion due for a partial
13 month shall be paid together with the first payment. If the
14 member recovers from the disability prior to his or her normal
15 retirement date, the last payment shall be the payment due
16 next preceding the date of such recovery or, if the member
17 dies without recovering from his or her disability, then the
18 following shall apply:

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

23 2. Unmarried member with 10 years of service or
24 more.--Payments shall be made until the member's death or the
25 120th monthly payment, whichever is later; or

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

28
29 Any monthly retirement income payments due after the death of
30 a disabled member shall be paid to the member's designated
31

1 beneficiary or beneficiaries or the member's estate as
2 provided in paragraph (5)(h) or subsection (7), as applicable.
3 (h) Reexamination of disability retirant.--At least
4 once each year during the first 5 years following a member's
5 retirement on account of disability, and at least once in each
6 3-year period thereafter, the Board shall require any
7 disability retirant who has not attained age 50 to undergo a
8 medical examination to be made by or under the direction of a
9 physician designated by the Board. However, if a disability
10 retirant has lost the firefighter certification, as required
11 by Florida Statutes, then the reexamination is discretionary.
12 If the retirant refuses to submit to the medical examination
13 in any such period, his or her disability pension may be
14 suspended by the Board until withdrawal of such refusal. If
15 such refusal continues for 1 year, all of the retirant's
16 rights in and to a disability pension may be revoked by the
17 Board. If, upon medical examination of the retirant, the
18 physician reports to the Board that the retirant is physically
19 able and capable of performing the duties of a firefighter in
20 the rank held by him or her at the time of retirement, the
21 member shall be returned to employment in the Department at a
22 salary not less than the salary of the rank last held by him
23 or her, provided that return to the employ of the Department
24 shall be subject to the approval of the Fire Chief. Should the
25 retirant become employed by the City, his or her disability
26 pension shall terminate.
27 (i) Return to work of a disability retirant; service
28 credit.--In the event a disability retirant is returned to
29 employment in the department, as provided in paragraph (h),
30 his or her service credit at the time of disability retirement
31 shall be restored to his or her credit. In the event he or she

1 retired under the provisions of paragraph (c), he or she shall
2 be given service credit for the period he or she was in
3 receipt of a disability pension. If he or she retired under
4 the provisions of paragraph (a), he or she shall not be given
5 service credit for the period he or she was in receipt of a
6 disability pension.

7 (j) Expenses of medical examinations for
8 disability.--The member shall be responsible for the expenses
9 of the physician the member designates for medical
10 examinations required under this subsection. Expenses for any
11 other medical examinations required under this subsection
12 shall be paid by the Fund.

13 (7) Beneficiary benefits.--

14 (a) Death while in service; 5 years or more
15 (nonduty).--In the event a member with 5 or more years of
16 service credit dies while in the employ of the Department, and
17 the Board finds his or her death to have occurred as the
18 result of causes arising outside the performance of his or her
19 duties as a firefighter in the employ of the City, the
20 following applicable pensions shall be paid:

21 1. Surviving spouse's benefits.--The surviving spouse
22 shall receive a pension equal to two-thirds of the pension the
23 member would otherwise have been entitled to receive under
24 paragraph (5)(a), as if the member had retired the day
25 preceding the date of his or her death, notwithstanding that
26 the member might not have met the age and service requirements
27 for retirement as specified in subsection (5). Upon the
28 surviving spouse's death, the pension shall terminate.

29 2. Benefits for children, surviving spouse, etc.--In
30 the event the deceased member does not leave a surviving
31 spouse, or if the surviving spouse shall die, and the member

1 leaves an unmarried child or children under age 18, each such
2 child shall receive a pension of an equal share of the pension
3 to which said member's surviving spouse was or would have been
4 entitled. Upon any such child's adoption, marriage, death, or
5 attainment of age 18, the child's pension shall terminate and
6 said child's pension shall be apportioned to the deceased
7 member's remaining eligible children under age 18.

8 3. Benefits for dependent parents.--In the event a
9 member dies and does not leave a surviving spouse or children
10 eligible to receive a pension provided for in subparagraphs 1.
11 and 2., and the member leaves a parent or parents whom the
12 Board finds to have been dependent upon the member for 50
13 percent or more of their financial support, each such parent
14 shall receive a pension of an equal share of the pension to
15 which the member's surviving spouse would have been entitled.
16 Upon any such parent's remarriage or death, the parent's
17 pension shall terminate.

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

23 (b) Death in the line of duty.--In the event a member
24 dies while in the employ of the Department, and the Board
25 finds his or her death to be the natural and proximate result
26 of causes arising out of and in the actual performance of duty
27 as a firefighter in the employ of the City, the following
28 applicable pensions shall be paid:

29 1. Surviving spouse's benefits.--The surviving spouse
30 shall receive a monthly pension equal to three-fourths of the
31 duty disability pension the member would otherwise have been

1 entitled to receive at the time of his or her death. Upon the
2 surviving spouse's death, the pension shall terminate.

3 2. Benefits for children, surviving spouse, etc.--In
4 the event the deceased member does not leave a surviving
5 spouse, or if the surviving spouse shall die, and the member
6 leaves an unmarried child or children under age 18, each such
7 child shall receive a pension of an equal share of the pension
8 to which the member's surviving spouse was or would have been
9 entitled. Upon any such child's adoption, marriage, death, or
10 attainment of age 18, the child's pension shall terminate and
11 said child's pension shall be apportioned to the deceased
12 member's remaining eligible children under age 18.

13 3. Benefits for dependent parents.--In the event a
14 member dies and does not leave a surviving spouse or children
15 eligible to receive a pension provided for in subparagraphs 1.
16 and 2., and the member leaves a parent or parents whom the
17 Board finds to have been dependent upon the member for 50
18 percent or more of their financial support, each such parent
19 shall receive a pension of an equal share of the pension to
20 which said member's surviving spouse would have been entitled.
21 Upon any such parent's remarriage or death, the parent's
22 pension shall terminate.

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

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

30 1. Surviving spouse's benefits.--The surviving spouse
31 shall receive a pension equal to three-fourths of the

1 retirant's pension at the time of his or her death. Upon the
2 surviving spouse's death, the pension shall terminate.

3 2. Benefits for children, surviving spouse, etc.--In
4 the event a deceased retirant does not leave a surviving
5 spouse, or if the surviving spouse shall die, and the retirant
6 leaves an unmarried child or children under age 18, each such
7 child shall receive a pension of an equal share of the pension
8 to which the retirant's surviving spouse was or would have
9 been entitled. Upon any such child's adoption, marriage,
10 death, or attainment of age 18, the child's pension shall
11 terminate and said child's pension shall be apportioned to the
12 deceased retirant's remaining eligible children under age 18.

13 3. Benefits for dependent parents.--In the event a
14 retirant dies and does not leave a surviving spouse or
15 children eligible to receive a pension provided for in
16 subparagraphs 1. and 2., and the retirant leaves a parent or
17 parents whom the Board finds to have been dependent upon the
18 retirant for 50 percent or more of their financial support,
19 each such parent shall receive a pension of an equal share of
20 the pension to which the retirant's surviving spouse would
21 have been entitled. Upon any such parent's remarriage or
22 death, the parent's pension shall terminate.

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

28 (8) Acceptance of pension no bar to subsequent
29 work.--The acceptance of a pension by a member upon retirement
30 shall not bar the member from engaging in any other business
31 thereafter.

1 (9) Pension not assignable or subject to
2 garnishment.--The pensions or other benefits accrued or
3 accruing to any person under the provision of this act and the
4 accumulated contributions and the cash securities in the Funds
5 created under this act shall not be subject to execution or
6 attachment or to any legal process whatsoever, and shall be
7 unassignable. However, pursuant to a court support order, the
8 Trustees may direct that the retirement benefits be paid for
9 alimony or child support in accordance with rules and
10 regulations adopted by the Board of Trustees.

11 (10) Transfer of funds.--All funds and assets
12 previously owned and controlled by the West Palm Beach
13 Firemen's Relief and Pension Fund are vested in the Board of
14 this Fund.

15 (11) Ordinances applicable.--All ordinances of the
16 City applicable to chapter 175, Florida Statutes, are hereby
17 made applicable to this act with equal force and effect. No
18 proposed change or amendment to this act shall be adopted
19 without approval required by section 175.351(2), Florida
20 Statutes.

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

24 (13) Workers' compensation offset.--The pension
25 benefits payable under this act shall not be offset by
26 workers' compensation benefits payable on account of the
27 disability or death of a member except to the extent that the
28 total of the pension benefits and workers' compensation
29 benefits exceed the member's monthly average wage.

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

1 (15) Review procedures.--

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

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

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

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

21 2. All witnesses shall be sworn.

22 3. The applicant and the Board shall have an
23 opportunity to question all witnesses.

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

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

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

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

1 calendar quarter following receipt of a favorable
2 determination letter from the Internal Revenue Service, the
3 City shall pick up the member contribution required by this
4 section. The contributions so picked up shall be treated as
5 employer contributions in determining tax treatment under the
6 United States Internal Revenue Code. The City shall pick up
7 the member contributions from funds established and available
8 for salaries, which funds would otherwise have been designated
9 as member contributions and paid to the Fund. Member
10 contributions picked up by the City pursuant to this
11 subsection shall be treated for all other purposes of making a
12 refund of members' contributions, and for all other purposes
13 of this and other laws, in the same manner and to the same
14 extent as member contributions made prior to the effective
15 date of this subsection. The intent of this subsection is to
16 comply with section 414(H)(2) of the Internal Revenue Code.
17 (18) Internal Revenue Code limits.--
18 (a) In no event may a member's annual benefit exceed
19 \$160,000, adjusted for cost of living in accordance with
20 Internal Revenue Code ("IRC") Section 415(d).
21 (b) If a member has less than 10 years of service with
22 the City, the applicable limitation in paragraph (a) shall be
23 reduced by multiplying such limitation by a fraction, not to
24 exceed 1. The numerator of such fraction shall be the number
25 of years, or part thereof, of service with the City; the
26 denominator shall be 10 years.
27 (c) For purposes of this subsection, "annual benefit"
28 means a benefit payable annually in the form of a straight
29 life annuity with no ancillary or incidental benefits and with
30 no member or rollover contributions. To the extent that
31 ancillary benefits are provided, the limits set forth in

1 paragraph (a) shall be reduced actuarially, using an interest
2 rate assumption equal to the greater of 5 percent or the rate
3 being used for actuarial equivalence, to reflect such
4 ancillary benefits.

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

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

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

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

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

5 (20) Miscellaneous requirements.--

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

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

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

21 (d) False or misleading statements made to obtain
22 retirement benefits prohibited.--

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

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

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

10 (21) Rollover distributions.--

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

19 (b)1. "Eligible rollover distribution" is any
20 distribution of all or any portion of the balance to the
21 credit of the distributee, except that an eligible rollover
22 does not include any distribution that is one of a series of
23 substantially equal periodic payments (not less frequently
24 than annually) made for the life (or life expectancy) of the
25 distributee or the joint lives (or joint life expectancies) of
26 the distributee and the distributee's designated beneficiary,
27 or for a specified period of 10 years or more; any
28 distribution to the extent such distribution is required under
29 section 401(a)(9) of the Code; and the portion of any
30 distribution that is not includable in gross income.

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1 2. "Eligible retirement plan" is an individual
2 retirement account described in section 408(a) of the Code, an
3 individual retirement annuity described in section 408(b) of
4 the Code, an annuity plan described in section 403(a) of the
5 Code, or a qualified trust described in section 401(a) of the
6 Code that accepts the distributee's eligible rollover
7 distribution. However, in the case of an eligible rollover
8 distribution to the surviving spouse, an "eligible retirement
9 plan" is an individual retirement account or individual
10 retirement annuity.

11 3. "Distributee" includes an employee or former
12 employee. In addition, the employee's or former employee's
13 surviving spouse and the employee's or former employee's
14 spouse or former spouse who is entitled to payment for alimony
15 and child support under a domestic relations order determined
16 to be qualified by this Fund are distributees with regard to
17 the interest of the spouse or former spouse.

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

20 (22) Rollovers from qualified plans.--

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

25 1. Some or all of the amount distributed from the
26 other plan is rolled over to this plan no later than the 60th
27 day after distribution was made from the plan or, if
28 distributions are made in installments, no later than the 60th
29 day after the last distribution was made.

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

4 3. The rollover is made in cash.

5 4. The member certifies that the distribution is
6 eligible for a rollover.

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

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11 The rollover may also be made to this plan from an individual
12 retirement account qualified under Code Section 408 when the
13 individual retirement was merely used as a conduit for funds
14 from another qualified plan and the rollover is made in
15 accordance with the rules provided in subparagraphs 1.-5.
16 Amounts rolled over may be segregated from other Fund assets.
17 The Trustee shall separately account for gains, losses, and
18 administrative expenses on these rollovers as provided for in
19 paragraphs (5)(d) and (j). In addition, the Fund may accept
20 the direct transfer of a member's benefits from another
21 qualified retirement plan or Internal Revenue Code section 457
22 plan. The Fund shall account for direct transfers in the same
23 manner as a rollover and shall obtain certification from the
24 member that the amounts are eligible for a rollover or direct
25 transfer to this Fund.

26 (b) Transfer of accumulated leave.--

27 1. Members eligible to receive accumulated sick leave,
28 accumulated vacation leave, or any other accumulated leave
29 payable upon separation shall have the leave transferred to
30 the Fund up to the amount permitted by law. Any additional
31 amounts shall be paid directly to the member. Members on whose

1 behalf leave has been transferred shall maintain the entire
2 amount of the transferred leave balance in the DROP or Share
3 Account.

4 2. If a member on whose behalf the City makes a
5 transferred leave balance to the Plan dies after retirement or
6 other separation, then any person who would have received a
7 death benefit had the member died in service immediately prior
8 to the date of retirement or other separation shall be
9 entitled to receive an amount equal to the transferred leave
10 balance in a lump sum. In the case of a surviving spouse or
11 former spouse, an election may be made to transfer the leave
12 balance to an eligible retirement plan in lieu of the lump sum
13 payment. Failure to make such an election by the surviving
14 spouse or former spouse within 60 days after the member's
15 death shall be deemed an election to receive the lump sum
16 payment.

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

19 4. Amounts transferred under this section shall remain
20 invested in the Pension Fund for a period of not less than 1
21 year.

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

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

27 (b) The assumed investment rate of return shall be
28 8.25 percent.

29 (24) Prior firefighter service.--Unless otherwise
30 prohibited by law, the years, or fractional parts of years,
31 that a member previously served as a firefighter with the City

1 during a period of employment and for which accumulated
2 contributions were withdrawn from the fund, or the years, and
3 fractional parts of years, that a member served as a
4 firefighter for this or any other municipal, county, or state
5 fire department or district or any time served in the military
6 service of the Armed Forces of the United States shall be
7 added to the years of credited service, provided that the
8 member contributes to the fund the sum that would have been
9 contributed, based on the member's salary and the employee
10 contribution rate in effect at the time that the credited
11 service is requested, had the member been a member of this
12 system for the years, or fractional parts of years, for which
13 the credit is requested, plus the amount actuarially
14 determined, such that the crediting of service does not result
15 in any cost to the fund, plus payment of costs for all
16 professional services rendered to the board in connection with
17 the purchase of years of credited service.

18 (a) Payment by the member of the required amount may
19 be made within 6 months after the request for credit and in
20 one lump sum payment, or the member may buy back this time
21 over a period equal to the length of time being purchased or 5
22 years, whichever is greater, at an interest rate which is
23 equal to the Fund's actuarial assumption. A member may request
24 to purchase some or all years of service.

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

27 (c) In no event, however, may credited service be
28 purchased pursuant to this section for prior service with any
29 other municipal, county, or state fire department or district,
30 if such prior service forms or will form the basis of a
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1 retirement benefit or pension from another retirement system
2 or plan.

3 (d) In the event that a member who is in the process
4 of purchasing service suffers a disability and is awarded a
5 benefit from the plan, the member shall not be required to
6 complete the buyback. However, contributions made prior to the
7 date the disability payment begins will be retained by the
8 Fund.

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

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

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

19 Section 3. This act shall take effect upon becoming a
20 law.

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