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1 A bill to be entitled
 2 An act relating to the West Palm Beach Firefighters
 3 Pension Fund, City of West Palm Beach, Palm Beach County;
 4 amending chapter 24981 (1947), Laws of Florida, as
 5 amended; amending the definition of final average salary;
 6 amending the sources of revenue; amending the service
 7 pensions; amending the normal retirement benefit; amending
 8 the share account benefit; adding a BackDROP benefit;
 9 amending the beneficiary benefits; amending provisions
 10 related to the rollovers from other plans; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subparagraph 7. of paragraph (a) of subsection
 16 (1), paragraphs (a) and (b) of subsection (3), paragraph (a),
 17 subparagraphs 3., 5., and 6., of paragraph (j), and paragraph
 18 (k) of subsection (5), and subparagraph 1. of paragraph (b) of
 19 subsection (7) of section 17 of chapter 24981 (1947), Laws of
 20 Florida, as amended by chapter 2002-360, Laws of Florida, are
 21 amended, and paragraph (1) is added to subsection (5) of said
 22 section, to read:

23 Section 17. West Palm Beach Firefighters Pension Fund.--
 24 (1) Creation of fund.--There is hereby created a special
 25 fund for the Fire Department of the City of West Palm Beach to
 26 be known as the West Palm Beach Firefighters Pension Fund. All
 27 assets of every description held in the name of the
 28 West Palm Beach Firemen's Relief and Pension Fund and in the
 29 name of the West Palm Beach Firefighters Pension Fund have been

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30 and shall continue to be combined.

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

34 7. "Final average salary" means the average of the monthly
 35 salary paid a member in the 2 3 best years of employment, paid
 36 in and prior to the 23rd year of credited service. No active
 37 nonDROP member shall have any salary amounts paid prior to
 38 October 1, 2000, used in the calculation of final average
 39 salary. Those members whose final average salary would include
 40 salary amounts paid prior to October 1, 2000, shall use salary
 41 paid during the period from October 1, 2000, through September
 42 30, 2001, to replace any salary amounts paid prior to October 1,
 43 2000.

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

46 (a) Taxes of insurance companies.--The moneys returned to
 47 the City as provided by chapter 175, Florida Statutes, shall be
 48 used to fund the share account benefit described in paragraph
 49 (5)(j). For the plan year October 1, 2003, through September 30,
 50 2004, all of the chapter 175 funds received shall be utilized to
 51 offset the City's contributions for the cost of the purchase of
 52 extra benefits, less any amounts used to fund the share account
 53 benefits for DROP members who do not convert in accordance with
 54 sub-subparagraph (5)(a)2.b. Beginning October 1, 2004, the
 55 chapter 175 moneys shall again be used in full to fund the share
 56 account benefits provided for in paragraph (5)(j). The City
 57 shall not opt out of participation in chapter 175, Florida
 58 Statutes, or any similar statutory enactment unless exigent

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59 circumstances exist, such as the bankruptcy of the City or
60 changes or amendments to the statute regarding extra benefits by
61 the Legislature. If any statutory changes are made by the
62 Legislature, the City and the Board may renegotiate the impact
63 of such changes, if necessary.

64 (b) Member contributions.--~~The member shall contribute~~
65 ~~6.45 percent of his or her salary to the Fund, which shall be~~
66 ~~deducted each pay period from the salary of each member in the~~
67 ~~Department. Effective the first full payroll period after~~
68 ~~January 1, 2002, the member shall contribute 7.85 percent of his~~
69 ~~or her salary to the Fund, which shall be deducted each pay~~
70 ~~period from the salary of each member in the Department.~~
71 ~~Effective the first full payroll period after October 1, 2002,~~
72 ~~the member shall contribute 8.85 percent of his or her salary to~~
73 ~~the Fund, which shall be deducted each pay period from the~~
74 ~~salary of each member in the Department. Effective the first~~
75 ~~full payroll period after October 1, 2003, the member shall~~
76 ~~contribute 9.85 percent of his or her salary to the Fund, which~~
77 ~~shall be deducted each pay period from the salary of each member~~
78 ~~in the Department. Effective the first full payroll period after~~
79 ~~October 1, 2004, the member shall contribute 18.2 percent of his~~
80 ~~or her salary to the Fund, which shall be deducted each pay~~
81 ~~period from the salary of each member in the Department.~~
82 ~~Effective the first full payroll period after January 1, 2005,~~
83 ~~the member shall contribute 18.7 percent of his or her salary to~~
84 ~~the Fund, which shall be deducted each pay period from the~~
85 ~~salary of each member in the Department. Effective the first~~
86 ~~full payroll period after January 1, 2006, the member shall~~
87 ~~contribute 19.2 percent of his or her salary to the Fund, which~~

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88 shall be deducted each pay period from the salary of each member
 89 in the Department. All amounts of member contributions that are
 90 deducted shall be immediately paid over to the Pension Fund. For
 91 contributions made before October 1, 2004, any contribution
 92 amount ~~The contribution increase~~ over 6.85 percent is to be used
 93 to purchase eligibility for participation in the postretirement
 94 health insurance benefits; effective October 1, 2004, that
 95 amount will increase to 15.2 percent.

96 (5) Service pension.--

97 (a) Normal retirement.--

98 1. Any member who is actively employed on and after
 99 October 1, 2003, excluding members in the DROP, who has attained
 100 age 50 years and who has acquired 15 or more years of service
 101 credit; who has attained age 55 years and who has acquired 10 or
 102 more years of service credit; or who has acquired 26 years of
 103 service credit without regard to age shall, upon application
 104 filed with the Board, be retired and shall be entitled to a
 105 monthly pension for the remainder of his or her life equal to
 106 the greater of the following:

107 a. Four percent of final average salary times credited
 108 service subject to a maximum of 92 percent of final average
 109 salary. However, in all cases, members shall be entitled to at
 110 least 2 percent per year of credited service; or

111 b. The sum of the following:

112 (I) Two and one-half percent of final average salary
 113 multiplied by the number of years, and fraction of a year, of
 114 service credit to a maximum of 26 years of service, and 2
 115 percent of his or her final average salary multiplied by the
 116 number of years, and fraction of a year, in excess of 26 years

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117 of service, for all years of service earned through September
 118 30, 1988; and

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

122 2. Any Member who is actively employed by the Department
 123 on and after October 1, 2003, and who is a member of the DROP on
 124 or after that date, may elect one of the following transition
 125 benefits by making a written election within 45 days after the
 126 effective date of this special act on a form provided by the
 127 Board of Trustees. The right to elect the transition benefits
 128 contained in sub-subparagraph b. shall terminate if no written
 129 election is made within 45 days after the effective date of this
 130 act. In the event a member does not submit a timely written
 131 election, the member shall be deemed to have elected the
 132 transition benefits contained in sub-subparagraph a. below:

133 a. Retain member's original monthly retirement benefit,
 134 DROP account balance, and share account balance. DROP members
 135 who select this transition benefit may continue to participate
 136 in the DROP until the end of the original DROP term. Additional
 137 allocations to the share account shall be made in accordance
 138 with the provisions of paragraph (j).

139 b. Convert the member's original monthly benefit and DROP
 140 balance to a new monthly benefit and BackDROP. In order to be
 141 entitled to this benefit, the member must cease membership in
 142 the DROP program. The new converted benefits will not be paid
 143 until the member has terminated employment. The conversion of
 144 the member's benefits shall be based on the following:

145 (I) Original monthly benefit conversion: A DROP member is

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146 entitled to a conversion of the original monthly benefit in an
 147 amount equal to 4 percent for each year of credited service
 148 excluding the BackDROP period with a 2-year final average
 149 salary. The 2-year final average salary shall be determined
 150 based on a 24-month period with the highest average prior to the
 151 number of full years of BackDROP (selected by the member in
 152 accordance with sub-sub-subparagraph II). No final average
 153 salary shall be included in a monthly benefit calculation for
 154 which a member has received a BackDROP payment.

155 (II) BackDROP conversion: The DROP member is entitled to a
 156 lump sum payment equal to the new monthly benefit annualized
 157 times a period of whole years as selected by the member up to a
 158 maximum of 5. The DROP member may select zero years. The
 159 BackDROP benefit will be paid interest at the rate of 8.25
 160 percent less expenses, compounded annually.

161 ~~1. Any member whose entry or reentry in the employment of~~
 162 ~~the Department occurs after April 30, 1959, who has attained age~~
 163 ~~50 years and who has acquired 15 or more years of service credit~~
 164 ~~or, effective for retirements after January 20, 2002, has 25~~
 165 ~~years of service credit without regard to age shall, upon~~
 166 ~~application filed with the Board, be retired and shall be~~
 167 ~~entitled to a monthly pension for the remainder of his or her~~
 168 ~~life equal to the greater of the following, as applicable:~~

169 ~~a. For a member who is actively employed by the Department~~
 170 ~~on or after October 1, 1998, or who is part of the DROP on or~~
 171 ~~after October 1, 1998, 3 percent of his or her final average~~
 172 ~~salary multiplied by the number of years, and fraction of a~~
 173 ~~year, of service credit earned from and after October 1, 1982,~~
 174 ~~plus 2-1/2 percent of his or her final average salary multiplied~~

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175 ~~by the number of years, and fraction of a year, of service~~
176 ~~credit earned prior to October 1, 1982, provided that in no case~~
177 ~~shall the total monthly pension payable to any such member~~
178 ~~exceed 78 percent of his or her final average salary;~~

179 ~~b. For members who terminated employment, retired, or~~
180 ~~entered the DROP prior to October 1, 1998, except as provided in~~
181 ~~sub-subparagraph a., 2-1/2 percent of his or her final average~~
182 ~~salary multiplied by the number of years, and fraction of a~~
183 ~~year, of service credit, provided that in no case shall the~~
184 ~~total monthly pension payable to any member exceed 65 percent of~~
185 ~~his or her final average salary; or~~

186 ~~e. The sum of the following:~~

187 ~~(I) Two and one-half percent of final average salary~~
188 ~~multiplied by the number of years, and fraction of a year, of~~
189 ~~service credit to a maximum of 26 years of service, and 2~~
190 ~~percent of his or her final average salary multiplied by the~~
191 ~~number of years, and fraction of a year, in excess of 26 years~~
192 ~~of service, for all years of service earned through September~~
193 ~~30, 1988; and~~

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

197 ~~2. Any member whose entry or reentry in the employment of~~
198 ~~the Department occurs after April 30, 1959, and prior to July 1,~~
199 ~~1977, may elect upon his or her retirement to receive a pension~~
200 ~~under the provisions of this subparagraph in lieu of~~
201 ~~subparagraph 1., as follows: Any member who has attained age 55~~
202 ~~years and who has acquired 20 or more years of service credit~~
203 ~~shall, upon his or her application filed with the Board, be~~

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204 ~~retired and, when so retired, shall be entitled to a monthly~~
 205 ~~pension for the remainder of his or her life equal to the~~
 206 ~~greater of the following:~~

207 ~~a. Two percent of final average salary multiplied by the~~
 208 ~~number of years, or fraction of a year, of service credit not to~~
 209 ~~exceed 25 years, provided that in no case shall the total~~
 210 ~~monthly pension payable to any member exceed 65 percent of his~~
 211 ~~or her final average salary; or~~

212 ~~b. The sum of the following:~~

213 ~~(I) Two and one-half percent of final average salary~~
 214 ~~multiplied by the number of years, and fraction of a year, of~~
 215 ~~service credit to a maximum of 26 years of service, and 2~~
 216 ~~percent of final average salary multiplied by the number of~~
 217 ~~years and fraction of a year in excess of 26 years of service,~~
 218 ~~for all years of service earned through September 30, 1988; and~~

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

222
 223 The 4-percent ~~3-percent~~ benefit accrual factor in sub-
 224 subparagraph 1.a. is contingent on and subject to the adoption
 225 and maintenance of the assumptions set forth in subsection
 226 (23)~~(22)~~. If such assumptions are modified by legislative,
 227 judicial, or administrative agency action, and the modification
 228 results in increased City contributions to the Pension Fund, the
 229 4-percent ~~3-percent~~ accrual factor in sub-subparagraph 1.a.
 230 shall be automatically decreased prospectively, from the date of
 231 the action, to completely offset the increase in City
 232 contributions. However, in no event shall the benefit accrual

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233 factor in sub-subparagraph 1.a. be adjusted below 3.5 ~~2.5~~
 234 percent. To the extent that the benefit accrual factor is less
 235 than 4 ~~3~~ percent, the supplemental pension distribution
 236 calculation under paragraph (d) shall be adjusted for employees
 237 who retire on or after October 1, 1998, and those employees who
 238 were members of the DROP on October 1, 1998. The adjustment
 239 shall be to decrease the minimum return of 8.25 percent needed
 240 to afford the supplemental pension distribution, when the amount
 241 of the reduction is zero if an employee has been credited with
 242 16 or more years with the 3-percent benefit accrual factor or
 243 1.25 percent if an employee has been credited with no more than
 244 a 2.5-percent benefit accrual factor. If an employee has been
 245 credited with less than 16 years at the 3-percent benefit
 246 accrual factor, then the accumulated amount over 2.5 percent for
 247 each year of service divided by .5 percent divided by 16
 248 subtracted from 1 multiplied by 1.25 percent is the reduction
 249 from 8.25 percent. An example of the calculation of the minimum
 250 return for supplemental pension distribution as described above
 251 is set forth in Appendix B to the collective bargaining
 252 agreement between the City of West Palm Beach and the West Palm
 253 Beach Association of Firefighters, Local 727-IAFF, October 1,
 254 2003-September 30, 2006 ~~October 1, 1998-September 30, 2001.~~

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

256 3. Annual allocation of accounts.--

257 a. Moneys shall be credited to each individual member
 258 account in an amount directly proportionate to the number of pay
 259 periods for which the member was paid compared to the total
 260 number of pay periods for which all members were paid, counting
 261 the pay periods in the calendar year preceding the date for

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262 which chapter 175, Florida Statutes, tax revenues were received.
 263 For the fiscal year beginning October 1, 2003, and ending
 264 September 30, 2004, share account allocations shall only be made
 265 to DROP members who elect not to convert in accordance with sub-
 266 subparagraph (5)(a)2.b. For purposes of determining the pro rata
 267 share for those share account allocations during the fiscal year
 268 beginning October 1, 2003, and ending September 30, 2004, the
 269 pay periods of all active firefighters, including DROP members,
 270 shall be used. Share account allocations made on and after
 271 October 1, 2004, shall be made to each individual share account.

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

276 c. The investment earnings or losses credited to the
 277 individual member accounts shall be in the same percentage as
 278 are earned or lost by the total investment earnings or losses of
 279 the Fund as a whole, unless the Board dedicates a separate
 280 investment portfolio for chapter 175, Florida Statutes, share
 281 accounts, in which case the investment earnings or losses shall
 282 be measured by the investment earnings or losses of the separate
 283 investment portfolio.

284 d. Costs, fees, and expenses of administration shall be
 285 debited from the individual member accounts on a proportionate
 286 basis, taking the cost, fees, and expenses of administration of
 287 the Fund as a whole, multiplied by a fraction, the numerator of
 288 which is the total assets in all individual member accounts and
 289 the denominator of which is the total assets of the Fund as a
 290 whole. The proportionate share of the costs, fees, and expenses

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291 shall be debited from each individual member account on a pro
 292 rata basis in the same manner as chapter 175, Florida Statutes,
 293 tax revenues are credited to each individual member account
 294 (i.e., based on pay periods).

295 e. If the entire balance of the individual member account
 296 is withdrawn before September 30 of any year, there shall be no
 297 adjustment made to that individual member account to reflect
 298 either investment earnings or losses or costs, fees, and
 299 expenses of administration.

300 5. Forfeitures.--Any member who has less than 10 years of
 301 credited service and who is not eligible for payment of benefits
 302 after termination of employment with the City shall forfeit his
 303 or her individual member account. The amounts credited to said
 304 individual member account shall be redistributed to the other
 305 individual member accounts in the same manner as chapter 175,
 306 Florida Statutes, tax revenues are credited (i.e., based on pay
 307 periods). However, the assets shall first be used to ensure that
 308 the former member's refund of contributions has not actuarially
 309 adversely impacted the payment for the extra benefits. If there
 310 has been an adverse impact, the shortfall shall be made up first
 311 before the amounts are reallocated to active members.

312 6. Payment of benefits.--The normal form of benefit
 313 payment shall be a lump sum payment of the entire balance of the
 314 individual member account; or, upon the written election of the
 315 member, upon a form prescribed by the Board, payment may be made
 316 either by:

317 a. Installments.--The account balance shall be paid out to
 318 the member ~~retirant~~ in three equal payments paid over 3 years,
 319 the first payment to be made upon approval of the Board; or

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320 b. Annuity.--The account balance shall be paid out in
 321 monthly installments over the lifetime of the member or until
 322 the entire balance is exhausted. The monthly amount paid shall
 323 be determined by the Fund's actuary in accordance with
 324 selections made by the member in a form provided by the Board.

325 (k) Deferred Retirement Option Plan (DROP).--Effective
 326 upon the ratification of the collective bargaining agreement
 327 between the City of West Palm Beach and the West Palm Beach
 328 Association of Firefighters, Local 727-IAFF, October 1, 2003-
 329 September 30, 2006, no new members may enter into the DROP.
 330 Existing DROP members on the ratification date shall have the
 331 option to remain in the DROP for the remainder of their
 332 individual 5-year terms in accordance with the provisions of
 333 subparagraph (5)(a)2.

334 1. Eligibility to participate in the DROP.--

335 a. Any member who is eligible to receive an early or
 336 normal retirement pension may participate in the DROP. Members
 337 shall elect to participate by applying to the Board of Trustees
 338 on a form provided for that purpose.

339 b. Election to participate shall be forfeited if not
 340 exercised within the first 35 years of combined credited
 341 service.

342 c. A member shall not participate in the DROP beyond the
 343 time of attaining 37 years of service and the total years of
 344 participation in the DROP shall not exceed 5 years. For example:

345 (I) Members with 32 years of credited service at the time
 346 of entry shall participate for only 5 years.

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

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

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

353 d. Upon a member's election to participate in the DROP, he
 354 or she shall cease to be a member and shall no longer accrue any
 355 benefits under the Pension Fund, except for the benefits
 356 provided under paragraph (j) of this subsection, chapter 175,
 357 Florida Statutes, share accounts. For all Fund purposes, the
 358 member becomes a retirant, except that a DROP participant shall
 359 continue to receive shares of the chapter 175, Florida Statutes,
 360 money in accordance with paragraph (j), chapter 175, Florida
 361 Statutes, share accounts. The amount of credited service and
 362 final average salary shall freeze as of the date of entry into
 363 the DROP.

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

366 a. Monthly retirement benefits that would have been
 367 payable had the member terminated employment with the Department
 368 and elected to receive monthly pension payments shall be paid
 369 into the DROP and credited to the retirant. Payments into the
 370 DROP shall be made monthly over the period the retirant
 371 participates in the DROP, up to a maximum of 60 months.

372 b. Payments to the DROP earn interest using the rate of
 373 investment return earned on Pension Fund assets as reported by
 374 the Fund's investment monitor. DROP assets are commingled with
 375 the Pension Fund assets for investment purposes. However, if a
 376 member does not terminate employment at the end of participation
 377 in the DROP, interest credit shall cease on the current balance

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378 and on all future DROP deposits.

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

381 d. Upon termination of employment, participants in the
382 DROP shall receive the balance of the DROP account in accordance
383 with the following rules:

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

387 (II) Payments shall be made in either:

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

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

393 (C) Annuity.--The account balance shall be paid out in
394 monthly installments over the lifetime of the member or until
395 the entire balance is exhausted. The monthly amount paid shall
396 be determined by the Fund's actuary in accordance with
397 selections made by the member in a form provided by the Board of
398 Trustees.

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

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

405 3. Loans from the DROP.--

406 a. Availability of loans.--

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

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

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

412 b. Amount of loan.--

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

415 (II) The maximum dollar amount of a loan is \$50,000,
 416 reduced by the highest outstanding loan balance during the last
 417 12 months.

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

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

421 d. Term of the loan.--

422 (I) The loan must be for at least 1 year.

423 (II) The loan shall be no longer than 5 years.

424 e. Loan interest rate.--

425 (I) The interest rate shall be fixed at the time the loan
 426 is originated for the entire term of the loan.

427 (II) The interest rate shall be equal to the lowest prime
 428 rate published by the Wall Street Journal on the last day of
 429 each calendar quarter preceding the date of the loan
 430 application.

431 f. Defaults of loans.--

432 (I) Loans shall be in default if 2 consecutive months'
 433 repayments are missed or if a total of 4 months' repayments are
 434 missed.

435 (II) Upon default, the entire balance becomes due and

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436 payable immediately.

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

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

442 g. Miscellaneous provisions.--

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

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

449 (III) Loans shall be considered general assets of the
 450 Fund.

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

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

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

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

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

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

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

464 d. Loans shall not be made against after-tax

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465 contributions.

466 (1) Backwards Deferred Retirement Option Plan
467 (BackDROP).--

468 1. Eligibility to participate in the BackDROP.--

469 a. Any member who has attained age 53 with 18 or more
470 years of service, who has attained age 58 with 13 or more years
471 of service, or who has acquired 26 years of service regardless
472 of age may participate in the BackDROP. Members shall elect to
473 participate by applying to the Board of Trustees on a form
474 provided for that purpose. A member may not participate in both
475 the DROP and the BackDROP.

476 b. Election to participate shall be forfeited if not
477 exercised within the first 28 years of credited service.

478 However, a member who is actively employed by the Department on
479 October 1, 2003, may elect to participate in the BackDROP beyond
480 the 28th year as follows: the member may elect to participate in
481 the benefit for 3 full years in the 29th year of employment, for
482 1 full year in the 30th year of employment, and after the 30th
483 year of employment all elections to participate in the BackDROP
484 end.

485 c. A member shall not be eligible to receive a BackDROP
486 benefit that is greater than an accumulation of 60 months of the
487 monthly retirement benefit. A member shall not be eligible to
488 receive a benefit which is less than an accumulation of 36
489 months of the monthly retirement benefit, except for the
490 reduction of benefits as defined in sub-subparagraph b.

491 d. Member contributions shall continue throughout the
492 period of employment and are not refundable for the BackDROP
493 period.

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494 e. Members who elect to participate in the BackDROP must
 495 retire and terminate employment to be eligible for payment of
 496 the benefit.

497 2. Benefits payable upon election to participate in the
 498 BackDROP.--

499 a. Upon election to receive the BackDROP benefit, a
 500 member's retirement benefits will be calculated as if the member
 501 had chosen to retire and terminate employment at a date which is
 502 3, 4, or 5 whole years earlier. The number of years to be
 503 applied is based upon the member's election. The monthly pension
 504 amount shall be multiplied by 36, 48, or 60, depending upon the
 505 member's election of 3, 4, or 5 years. The BackDROP benefit
 506 shall be calculated as a single sum, including interest at the
 507 rate of 8.25 percent less expenses, compounded annually for the
 508 period of BackDROP.

509 b. No payments shall be made from the BackDROP until the
 510 member terminates employment with the Department.

511 c. Upon termination of employment, participants in the
 512 BackDROP shall receive the balance of the BackDROP account in
 513 accordance with the following rules:

514 (I) Members may elect to receive payment upon termination
 515 of employment or defer payment of the BackDROP until the latest
 516 day under sub-sub-subparagraph (III).

517 (II) Payments shall be made in either:

518 (A) A lump sum.--The entire account balance shall be paid
 519 to the retirant upon approval of the Board of Trustees.

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

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523 (C) Annuity.--The account balance shall be paid out in
 524 monthly installments over the lifetime of the member or until
 525 the entire balance is exhausted. The monthly amount paid shall
 526 be determined by the Fund's actuary in accordance with
 527 selections made by the member in a form provided by the Board of
 528 Trustees.

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

532 (IV) The beneficiary of the BackDROP member shall have the
 533 same right as the participant in accordance with subsection (7).

534 3. BackDROP earnings.--

535 a. BackDROP members may select one of three methods to
 536 credit investment earnings to their accounts. Investment
 537 earnings shall be credited on a quarterly basis. The method may
 538 be changed each year effective October 1; however, the method
 539 must be elected prior to October 1. The methods are:

540 (I) The BackDROP is credited with earnings and losses
 541 using the rate of investment return earned on Pension Fund
 542 assets as reported by the Fund's investment monitor. BackDROP
 543 assets are commingled with the Pension Fund assets for
 544 investment purposes;

545 (II) A fixed rate of 8.25 percent; or

546 (III) A percentage of the BackDROP account assets to be
 547 credited with earnings or losses in accordance with sub-sub-
 548 subparagraph (I) and a corresponding percentage of the BackDROP
 549 account assets credited in accordance with sub-sub-subparagraph
 550 (II). The combined total percentage invested under this sub-sub-
 551 subparagraph must equal 100 percent.

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552 b. Costs, fees, and expenses of administration shall be
 553 debited from the individual member BackDROP accounts on a
 554 proportionate basis, taking the cost, fees, and expenses of
 555 administration of the Fund as a whole, multiplied by a fraction,
 556 the numerator of which is the total of assets in all individual
 557 member accounts and the denominator of which is the total of
 558 assets of the Fund as a whole.

559 (7) Beneficiary benefits.--

560 (b) Death in the line of duty.--In the event a member dies
 561 while in the employ of the Department, and the Board finds his
 562 or her death to be the natural and proximate result of causes
 563 arising out of and in the actual performance of duty as a
 564 firefighter in the employ of the City, the following applicable
 565 pensions shall be paid:

566 1. Surviving spouse's benefits.--The surviving spouse
 567 shall receive a monthly pension equal to sixty-six and two-
 568 thirds ~~three-fourths~~ of the member's highest 12 months' salary
 569 or top step firefighter pay, whichever is greater ~~duty~~
 570 ~~disability pension the member would otherwise have been entitled~~
 571 ~~to receive at the time of his or her death.~~ Upon the surviving
 572 spouse's death, the pension shall terminate.

573 Section 2. This act shall take effect upon becoming a law.