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A bill to be entitled

An act relating to the City of West Palm Beach, Palm Beach County; amending chapter 24981 (1947), Laws of Florida, as amended; revising provisions relating to the West Palm Beach Firefighters Pension Fund; revising definition of the term "final average salary"; revising provisions relating to permissible investments; revising provisions relating to the BackDROP; providing for loans from the BackDROP; clarifying provisions relating to benefits of the surviving spouse of a member who dies in line of duty; providing an effective date.

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

Section 1. Section 17 of chapter 24981 (1947), Laws of Florida, as amended by chapters 2002-360, 2003-347, and 2004-462, Laws of Florida, is amended to read:

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

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

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

1. "Actuarial equivalent value," "actuarial equivalence,"

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30 or "single sum value" means the stated determination using an
 31 interest rate of 8.25 percent per year and the 1983 Group
 32 Annuity Mortality Table for males.

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

37 3. "Board of Trustees" or "Board" means the Board of
 38 Trustees provided for in this act.

39 4. "City" means the City of West Palm Beach, Florida.

40 5. "Department" means the Fire Department of the City.

41 6. "Enrolled actuary" means an actuary who is enrolled
 42 under Subtitle C of Title III of the Employee Retirement Income
 43 Security Act of 1974 and who is a member of the Society of
 44 Actuaries or the American Academy of Actuaries.

45 7. "Final average salary" means the average of the monthly
 46 salary paid a member in the 2 best years of employment, paid in
 47 and prior to the 23rd year of credited service. No active
 48 nonDROP member shall have any salary amounts paid prior to
 49 October 1, 2000, used in the calculation of final average
 50 salary. Those members whose final average salary would include
 51 salary amounts paid prior to October 1, 2000, shall use salary
 52 paid during the period from October 1, 2000, through September
 53 30, 2001, to replace any salary amounts paid prior to October 1,
 54 2000. The replacement salary from October 1, 2000, through
 55 September 30, 2001, may range anywhere between 2 weeks and 104
 56 weeks, but shall only be enough salary as is sufficient to
 57 replace the salary paid prior to October 1, 2000. The

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58 replacement salary amounts from October 1, 2000, to September
 59 30, 2001, shall be prorated based upon an annual salary.

60 8. "Firefighter" means any person employed in the
 61 Department who is certified as a firefighter as a condition of
 62 employment in accordance with the provisions of section 633.35,
 63 Florida Statutes.

64 9. "Fund" or "Pension Fund" means the West Palm Beach
 65 Firefighters Pension Fund or the West Palm Beach Firemen's
 66 Relief and Pension Fund, as applicable.

67 10. "Member" means any person who is included in the
 68 membership of the Fund in accordance with paragraph (h).

69 11. "Pension" means a monthly amount payable from the Fund
 70 throughout the future life of a person, or for a limited period
 71 of time, as provided in this act.

72 12. "Qualified health professional" means a person duly
 73 and regularly engaged in the practice of his or her profession
 74 who holds a professional degree from a university or college and
 75 has had special professional training or skill regarding the
 76 physical or mental condition, disability, or lack thereof, upon
 77 which he or she is to present evidence to the Board.

78 13. "Qualified public depository" means any bank or
 79 savings association organized and existing under the laws of
 80 Florida and any bank or savings association organized under the
 81 laws of the United States that has its principal place of
 82 business in Florida, or has a branch office which is authorized
 83 under the laws of Florida or the United States to receive
 84 deposits in Florida, that meets all of the requirements of
 85 chapter 280, Florida Statutes, and that has been designated by
 86 the Treasurer of the State of Florida as a qualified public

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87 depository.

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

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

92 16. "Salary" means:

93 a. The fixed monthly compensation paid to a firefighter
94 and shall include those items that have been included as
95 compensation in accordance with past practice. However, the term
96 shall not be construed to include lump sum payments for
97 accumulated leave.

98 b. On and after October 1, 2001, "salary," for the purpose
99 of pension contributions, shall be defined as payments made to a
100 firefighter by the City for: regular hours worked; step-up pay;
101 longevity pay; all authorized leave time, which includes
102 compensatory time used, earned personal leave used, emergency
103 leave used, sick leave used, sick leave pay bank used, vacation
104 time used, holiday time used, emergency leave, bereavement
105 leave, and administrative leave; certification pay, which
106 includes paramedic, hazardous material technician, special
107 operations, dive rescue, fire service instructor, fire
108 inspector, and SWAT certification pay; fire inspector standby
109 pay; educational bonus incentive; pay received from the City
110 during military training; and sick leave conversion when such
111 leave is converted during the course of active employment. The
112 definition of "salary" specifically excludes any lump sum
113 payments for accumulated leave such as that received upon final
114 payoff. Employees who are specifically excluded from bargaining
115 unit recognition as set forth in Article 2, but who are members

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116 of the West Palm Beach Firefighters Pension Fund, shall continue
 117 to make contributions on management incentive benefits. This
 118 definition of compensation shall not include any duty employment
 119 that is performed for other than the City of West Palm Beach per
 120 Article 31, Salary Plan.

121 17. "Service," "credited service," or "service credit"
 122 means the total number of years, and fractional parts of years,
 123 of employment of any member in the employ of the Department,
 124 omitting intervening years and fractional parts of years of
 125 service when the member was not employed by the City. However,
 126 no member shall receive credit for years, or fractional parts of
 127 years, of service for which the member has withdrawn his or her
 128 contributions to the Fund, unless the member repays into the
 129 Fund the contributions withdrawn, with interest, within 60
 130 months after reemployment. Further, a member may voluntarily
 131 leave his or her contributions in the Fund for a period of 5
 132 years after leaving the employ of the Department, pending the
 133 possibility of his or her being rehired by the Department and
 134 remaining employed for a period of not less than 3 years,
 135 without losing credit for the time he or she has participated
 136 actively as a firefighter. If he or she does not remain employed
 137 for a period of at least 3 years as a firefighter with the
 138 Department upon reemployment, within 5 years his or her
 139 contributions shall be returned without interest in accordance
 140 with paragraph (5)(i). In determining the aggregate number of
 141 years of service of any member, the time spent in the military
 142 service of the United States or United States Merchant Marine by
 143 the member on leave of absence from the Department for such
 144 reason shall be added to the years of service, provided such

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145 time shall not exceed 5 years. Further, to receive credit for
 146 such service the member must return to employment as a
 147 firefighter of the City within 1 year after the date of release
 148 from such active service.

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

152 (c) Board of Trustees created.--There is hereby created a
 153 Board of Trustees, which shall be solely responsible for
 154 administering the West Palm Beach Firefighters Pension Fund and
 155 the West Palm Beach Firemen's Relief and Pension Fund. The Board
 156 shall be a legal entity, with the power to bring and defend
 157 lawsuits of every kind, nature, and description, and shall be
 158 independent of the City to the extent required to accomplish the
 159 intent, requirements, and responsibilities provided for in this
 160 act and applicable law. The Board shall consist of five
 161 trustees, as follows:

162 1. Two legal residents of the City, who shall be appointed
 163 by the City. Each resident-trustee shall serve as a trustee for
 164 a period of 2 years, unless sooner replaced by the City, at
 165 whose pleasure he or she shall serve, and may succeed himself or
 166 herself as trustee.

167 2. Two full-time firefighters shall be elected by a
 168 majority of the firefighters who are members of the Fund.
 169 Elections shall be held under such reasonable rules and
 170 regulations as the Board shall from time to time adopt. Each
 171 member-trustee shall serve as a trustee for a period of 2 years,
 172 unless he or she sooner ceases to be a firefighter in the employ
 173 of the Department, whereupon the members shall choose a

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174 successor in the same manner as the original appointment. Each
 175 member-trustee may succeed himself or herself as trustee.

176 3. A fifth trustee shall be chosen by a majority of the
 177 other four trustees. This fifth person's name shall be submitted
 178 to the City, which shall, as a ministerial duty, appoint such
 179 person to the Board as a fifth trustee. The fifth person shall
 180 serve as trustee for a period of 2 years, and may succeed
 181 himself or herself as trustee.

182 (d) Board vacancy; how filled.--In the event a trustee
 183 provided for in subparagraph (c)2. ceases to be a firefighter in
 184 the employ of the Department, such trustee shall be considered
 185 to have resigned from the Board. In the event a trustee provided
 186 for in subparagraph (c)2. shall resign, be removed, or become
 187 ineligible to serve as a trustee, the Board shall, by
 188 resolution, declare the office of trustee vacated as of the date
 189 of adoption of said resolution. If such a vacancy occurs in the
 190 office of trustee within 90 days of the next succeeding election
 191 for trustee, the vacancy shall be filled at the next regular
 192 election for the next term; otherwise, the vacancy shall be
 193 filled for the unexpired portion of the term by the members in
 194 the same manner as an original appointment. In the event a
 195 trustee provided for in subparagraph (c)1. or subparagraph (c)3.
 196 shall resign, be removed, or become ineligible to serve as a
 197 trustee, the Board shall, by resolution, declare the office of
 198 trustee vacated as of the date of adoption of said resolution. A
 199 successor for the unexpired portion of the term shall be chosen
 200 in the same manner as an original appointment.

201 (e) Board meetings; quorum; procedures.--The Board shall
 202 hold meetings regularly, at least once in each quarter year, and

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203 shall designate the time and place thereof. At any meeting of
204 the Board, three trustees shall constitute a quorum. Each
205 trustee shall be entitled to one vote on each question before
206 the Board and at least three concurring votes shall be required
207 for a decision by the Board at any of its meetings. The Board
208 shall adopt its own rules of procedure and shall keep a record
209 of its proceedings. All public records of the Fund shall be kept
210 and maintained as required by law. All meetings of the Board
211 shall be open to the public and shall be held as required by
212 law.

213 (f) Board chair.--The Board shall elect a chair from among
214 the trustees.

215 (g) Board secretary.--The Board shall elect a secretary
216 from among the trustees. The secretary shall keep a complete
217 minute book of the actions, proceedings, and hearings of the
218 Board.

219 (h) Membership.--All firefighters and all who hold a
220 position of firefighter in the employ of the Department shall be
221 members in the Fund. All firefighters, including the chief, who
222 were in the employ of the Department as of April 30, 1959, shall
223 be given credit for service rendered in the employ of the
224 Department prior to May 1, 1959. New members to the Fund are
225 required to undergo a physical examination for purposes of
226 determining preexisting conditions. This physical examination
227 shall be conducted in conjunction with the City's postoffer,
228 preemployment physical examination. The Board's medical director
229 shall review the results of this physical examination and
230 provide notice to the Board and the member of any abnormal
231 findings of the examination. This physical examination will be

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232 used for the purposes of establishing a physical profile of the
 233 member for determining preexisting conditions and presumptive
 234 illnesses as provided for in subsection (6). After review, if
 235 further physical examination is required, such examination shall
 236 be conducted at Board expense.

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

240 (2) Professional and clerical services.--

241 (a) Pension administrator.--The pension administrator of
 242 the Fund shall be designated by the Board and shall carry out
 243 its orders and directions.

244 (b) Legal counsel.--The City Attorney shall give advice to
 245 the Board in all matters pertaining to its duties in the
 246 administration of the Fund whenever requested, shall represent
 247 and defend the Board as its attorney in all suits and actions at
 248 law or in equity that may be brought against it, and shall bring
 249 all suits and actions in its behalf that may be required or
 250 determined by the Board. However, if the Board so elects, it may
 251 employ independent legal counsel at the Fund's expense for the
 252 purposes set forth in this act.

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

256 (d) Certified public accountant.--The Board shall employ,
 257 at its expense, a certified public accountant to conduct an
 258 independent audit of the Fund. The certified public accountant
 259 shall be independent of the Board and the City.

260 (e) Additional professional, technical, or other

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261 services.--The Board shall have the authority to employ such
 262 professional, technical, or other advisors as required to carry
 263 out the provisions of this act.

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

266 (a) Taxes of insurance companies.--The moneys returned to
 267 the City as provided by chapter 175, Florida Statutes, shall be
 268 used to fund the share account benefit described in paragraph
 269 (5)(j). For the plan year October 1, 2003, through September 30,
 270 2004, all of the chapter 175 funds received shall be utilized to
 271 offset the City's contributions for the cost of the purchase of
 272 extra benefits, less any amounts used to fund the share account
 273 benefits for DROP members who do not convert in accordance with
 274 sub-subparagraph (5)(a)2.b. Beginning October 1, 2004, the
 275 chapter 175 moneys shall again be used in full to fund the share
 276 account benefits provided for in paragraph (5)(j). The City
 277 shall not opt out of participation in chapter 175, Florida
 278 Statutes, or any similar statutory enactment unless exigent
 279 circumstances exist, such as the bankruptcy of the City or
 280 changes or amendments to the statute regarding extra benefits by
 281 the Legislature. If any statutory changes are made by the
 282 Legislature, the City and the Board may renegotiate the impact
 283 of such changes, if necessary.

284 (b) Member contributions.--Effective the first full
 285 payroll period after October 1, 2003, the member shall
 286 contribute 9.85 percent of his or her salary to the Fund, which
 287 shall be deducted each pay period from the salary of each member
 288 in the Department. Effective the first full payroll period after
 289 October 1, 2004, the member shall contribute 18.2 percent of his

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290 or her salary to the Fund, which shall be deducted each pay
 291 period from the salary of each member in the Department.
 292 Effective the first full payroll period after January 1, 2005,
 293 the member shall contribute 18.7 percent of his or her salary to
 294 the Fund, which shall be deducted each pay period from the
 295 salary of each member in the Department. Effective the first
 296 full payroll period after January 1, 2006, the member shall
 297 contribute 19.2 percent of his or her salary to the Fund, which
 298 shall be deducted each pay period from the salary of each member
 299 in the Department. All amounts of member contributions that are
 300 deducted shall be immediately paid over to the Pension Fund. For
 301 contributions made before October 1, 2004, any contribution
 302 amount over 6.85 percent is to be used to purchase eligibility
 303 for participation in the postretirement health insurance
 304 benefits; effective October 1, 2004, that amount will increase
 305 to 15.2 percent.

306 (c) City contributions.--The City shall contribute to the
 307 Fund annually an amount which, together with the contributions
 308 from the members and other income sources as authorized by law,
 309 will be sufficient to meet the normal cost of the Fund and to
 310 fund the actuarial deficiency over a period of not more than 40
 311 years, provided that the net increase, if any, in unfunded
 312 liability of the Fund arising from significant amendments or
 313 other changes shall be amortized within 30 plan years.

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

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

318 (f) Other sources.--All other sources of income now or

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319 hereafter authorized by law for the augmentation of the Fund.

320 (4) Custodian of funds.--All moneys and securities of the
 321 Fund may be deposited with the cash management coordinator of
 322 the City, acting in a ministerial capacity only, who shall be
 323 bonded and shall be liable in the same manner and to the same
 324 extent as he or she is liable for the safekeeping of funds for
 325 the City. However, any funds and securities so deposited with
 326 the cash management coordinator shall be kept in a separate fund
 327 by the cash management coordinator or clearly identified as
 328 funds and securities of the Fund. In lieu thereof, the Board
 329 shall deposit the funds and securities in a qualified public
 330 depository designated by the Board. The cash management
 331 coordinator or other depository shall receive all moneys due
 332 said Fund from all sources whatsoever. All tax revenue received
 333 pursuant to the provisions of chapter 175, Florida Statutes,
 334 shall be deposited into the Fund no more than 5 days after
 335 receipt. Member contributions withheld by the City on behalf of
 336 a member shall be deposited into the Fund immediately.

337 (a) Disbursements from the Fund.--The Board may issue
 338 drafts upon the Fund pursuant to this act and rules and
 339 regulations prescribed by the Board, provided that such drafts
 340 shall be issued in accordance with generally accepted accounting
 341 procedures, American Institute of Certified Public Accountants
 342 guidelines, and rules of the State of Florida Auditor General.
 343 All such drafts shall be consecutively numbered, signed by the
 344 chair and secretary, and each draft shall, upon its face, state
 345 the purpose for which it is drawn. For this purpose, the chair
 346 and secretary shall be bonded. The Board shall retain such
 347 drafts when paid, as permanent vouchers for disbursements made,

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348 and no moneys shall be otherwise drawn from the Fund. Payments
 349 from the Fund shall be made only upon a specific or general
 350 motion or resolution previously adopted by the Board authorizing
 351 such payment or payments.

352 (b) Investment of moneys.--The Board shall have the power
 353 and authority to invest and reinvest the moneys of the Fund, and
 354 to hold, purchase, sell, assign, transfer, and dispose of any
 355 securities and investments held in said Fund. The aim of the
 356 investment policies shall be to preserve the integrity and
 357 security of Fund principal, to maintain a balanced investment
 358 portfolio, to maintain and enhance the value of Fund principal,
 359 and to secure the maximum total return on investments that is
 360 consonant with safety of principal, provided that such
 361 investments and reinvestments shall be limited to the following:

362 1. Direct obligations of the United States Government or
 363 any agency thereof and debentures and other evidences of
 364 indebtedness which are fully guaranteed by the United States
 365 Government or any agency thereof for the payment of principal
 366 and interest.

367 2. Direct obligations of the State of Florida.

368 3. In debt securities, preferred and common stocks and
 369 mutual fund shares subject to the limitations set forth in this
 370 section.

371 4. In time or savings accounts of a national bank, a state
 372 bank insured by the Bank Insurance Fund, a savings and loan
 373 association to the extent that deposits are guaranteed by the
 374 Savings Association Insurance Fund which is administered by the
 375 Federal Deposit Insurance Corporation, or a state or federally
 376 chartered credit union whose share accounts are insured by the

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377 National Credit Union Share Insurance Fund.

378 5. Of the total Fund principal in the pension or
379 retirement system, including the amounts deposited in banks or
380 associations, the total thereof invested in preferred stocks
381 shall not aggregate more than 5 percent, and the total amount
382 thereof invested in common stocks and mutual fund shares shall
383 not aggregate more than 70 percent. Percentages shall be based
384 on market value at the end of each reporting period (September
385 30).

386 6. In real property or real estate investments, such
387 investments shall not aggregate more than 15 percent of the
388 market value of the total Fund principal in the pension or
retirement system.

389 7. In derivative investments and futures, such investments
390 shall not aggregate more than 10 percent of the market value of
391 the total Fund principal in the pension or retirement system.

392 8. Any investments permitted by sections 112.661 and
393 215.47(1)-(8), (10), and (16), Florida Statutes, up to the
394 limits stated therein.

395 9. The following minimum standards shall govern the
396 eligibility of securities for purchase as investments:

397 a. All corporate and association securities and mutual
398 fund shares shall be issued by a corporation or other legal
399 person, incorporated or otherwise, organized within the United
400 States and domiciled therein, except that up to 20 percent of
401 the market value of the total Fund principal in the pension or
402 retirement system may be invested in the stocks and bonds of
403 foreign domiciled corporations ~~to the extent required by section~~
404 ~~175.071(1)(b), Florida Statutes.~~

405 b. Not more than 10 percent of the total Fund principal at

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406 market value shall be invested in any one issuing company other
 407 than obligations of the United States or an agency thereof.

408 c. All ~~bonds, stocks, or other evidence of indebtedness~~
 409 issued or guaranteed by a corporation shall be listed on any one
 410 or more of the major ~~recognized national~~ stock exchanges, ~~and,~~
 411 In the case of bonds ~~only~~, at a minimum, 80 percent of bonds
 412 purchased for the Fund shall hold a rating in one of the four
 413 highest classifications by a major rating service. Said bonds
 414 and preferred stocks that are convertible into common stocks
 415 shall be considered common stocks and the purchase of same shall
 416 be limited by the provisions of subparagraph 5.

417 d. The Board shall engage the services of professional
 418 investment counsel to assist and advise the trustees in the
 419 performance of their duties.

420 e. At least once every 3 years, the Board shall retain an
 421 independent consultant professionally qualified to evaluate the
 422 performance of its professional money manager or investment
 423 counsel. The independent consultant shall make recommendations
 424 to the Board at its next regularly scheduled meeting.

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

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

430 (e) Restrictions on the use of assets of Fund.--The assets
 431 of the Fund shall be used only for the payment of benefits and
 432 other disbursements authorized by this act and shall be used for
 433 no other purpose.

434 (5) Service pension.--

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435 (a) Normal retirement.--

436 1. Any member who is actively employed on and after
 437 October 1, 2003, excluding members in the DROP, who has attained
 438 age 50 years and who has acquired 15 or more years of service
 439 credit; who has attained age 55 years and who has acquired 10 or
 440 more years of service credit; or who has acquired 26 years of
 441 service credit without regard to age shall, upon application
 442 filed with the Board, be retired and shall be entitled to a
 443 monthly pension for the remainder of his or her life equal to
 444 the greater of the following:

445 a. Four percent of final average salary times credited
 446 service subject to a maximum of 92 percent of final average
 447 salary. However, in all cases, members shall be entitled to at
 448 least 2 percent per year of credited service; or

449 b. The sum of the following:

450 (I) Two and one-half percent of final average salary
 451 multiplied by the number of years, and fraction of a year, of
 452 service credit to a maximum of 26 years of service, and 2
 453 percent of his or her final average salary multiplied by the
 454 number of years, and fraction of a year, in excess of 26 years
 455 of service, for all years of service earned through September
 456 30, 1988; and

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

460 2. Any member who is actively employed by the Department
 461 on and after October 1, 2003, and who is a member of the DROP on
 462 or after that date, may elect one of the following transition
 463 benefits by making a written election within 45 days after the

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464 effective date of this special act on a form provided by the
465 Board of Trustees. The right to elect the transition benefits
466 contained in sub-subparagraph b. shall terminate if no written
467 election is made within 45 days after the effective date of this
468 act. In the event a member does not submit a timely written
469 election, the member shall be deemed to have elected the
470 transition benefits contained in sub-subparagraph a. below:

471 a. Retain member's original monthly retirement benefit,
472 DROP account balance, and share account balance. DROP members
473 who select this transition benefit may continue to participate
474 in the DROP until the end of the original DROP term. Additional
475 allocations to the share account shall be made in accordance
476 with the provisions of paragraph (j).

477 b. Convert the member's original monthly benefit and DROP
478 balance to a new monthly benefit and BackDROP. In order to be
479 entitled to this benefit, the member must cease membership in
480 the DROP program. The new converted benefits will not be paid
481 until the member has terminated employment. The conversion of
482 the member's benefits shall be based on the following:

483 (I) Original monthly benefit conversion: A DROP member is
484 entitled to a conversion of the original monthly benefit in an
485 amount equal to 4 percent for each year of credited service
486 excluding the BackDROP period with a 2-year final average
487 salary. The 2-year final average salary shall be determined
488 based on a 24-month period with the highest average prior to the
489 number of full years of BackDROP (selected by the member in
490 accordance with sub-sub-subparagraph II). No final average
491 salary shall be included in a monthly benefit calculation for
492 which a member has received a BackDROP payment.

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493 (II) BackDROP conversion: The DROP member is entitled to a
 494 lump sum payment equal to the new monthly benefit annualized
 495 times a period of whole years as selected by the member up to a
 496 maximum of 5. ~~The DROP member may select zero years.~~ The
 497 BackDROP benefit will be paid interest at the rate of 8.25
 498 percent less expenses, compounded annually.

499
 500 The 4-percent benefit accrual factor in sub-subparagraph 1.a. is
 501 contingent on and subject to the adoption and maintenance of the
 502 assumptions set forth in subsection (23). If such assumptions
 503 are modified by legislative, judicial, or administrative agency
 504 action, and the modification results in increased City
 505 contributions to the Pension Fund, the 4-percent accrual factor
 506 in sub-subparagraph 1.a. shall be automatically decreased
 507 prospectively, from the date of the action, to completely offset
 508 the increase in City contributions. However, in no event shall
 509 the benefit accrual factor in sub-subparagraph 1.a. be adjusted
 510 below 3.5 percent. To the extent that the benefit accrual factor
 511 is less than 4 percent, the supplemental pension distribution
 512 calculation under paragraph (d) shall be adjusted for employees
 513 who retire on or after October 1, 1998, and those employees who
 514 were members of the DROP on October 1, 1998. The adjustment
 515 shall be to decrease the minimum return of 8.25 percent needed
 516 to afford the supplemental pension distribution, when the amount
 517 of the reduction is zero if an employee has been credited with
 518 16 or more years with the 3-percent benefit accrual factor or
 519 1.25 percent if an employee has been credited with no more than
 520 a 2.5-percent benefit accrual factor. If an employee has been
 521 credited with less than 16 years at the 3-percent benefit

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522 accrual factor, then the accumulated amount over 2.5 percent for
 523 each year of service divided by .5 percent divided by 16
 524 subtracted from 1 multiplied by 1.25 percent is the reduction
 525 from 8.25 percent. An example of the calculation of the minimum
 526 return for supplemental pension distribution as described above
 527 is set forth in Appendix B to the collective bargaining
 528 agreement between the City of West Palm Beach and the West Palm
 529 Beach Association of Firefighters, Local 727-IAFF, October 1,
 530 2003-September 30, 2006.

531 (b) Vested deferred retirement.--A member who leaves the
 532 employ of the Department with 10 or more years of credited
 533 service who is not eligible for any other retirement benefit
 534 under this act shall be entitled to the applicable pension
 535 provided for in paragraph (a) or paragraph (c). Payment of this
 536 pension shall begin the first day of the calendar month
 537 following the month in which the member's application is filed
 538 with and accepted by the Board on or after attainment of age 50
 539 years. If applicable, the amount of the pension shall be
 540 determined in accordance with paragraph (c).

541 (c) Early retirement.--Any member may retire from the
 542 service of the Department as of the first day of any calendar
 543 month which is prior to the member's normal retirement date but
 544 subsequent to the date as of which the member has both attained
 545 the age of 50 and has been a member of this Fund for 10
 546 continuous years. In the event of early retirement, the monthly
 547 amount of retirement income shall be computed as described in
 548 paragraph (a), taking into account his or her credited service
 549 to the date of actual retirement and his or her final average
 550 salary as of such date. The amount of retirement income shall be

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551 actuarially reduced to take into account the member's younger
 552 age and earlier commencement of retirement income benefits. The
 553 early retirement reduction shall be 3 percent for each year by
 554 which the member's age at retirement preceded the member's
 555 normal retirement age.

556 (d) Supplemental pension distribution.--

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

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

571 c. A distribution amount shall be determined as of each
 572 September 30. For distributions made after October 1, 1998,
 573 there shall be two different calculations to determine the
 574 distribution amount. For those employees who retire on or after
 575 October 1, 1998, or who are part of the DROP on or after October
 576 1, 1998, the distribution amount shall be equal to factor (i)
 577 for each applicable member multiplied by the sum of factor (ii)
 578 and the positive difference, if any, between factor (iii) and
 579 8.25 percent. For those employees who have retired before

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580 October 1, 1998, except as provided in this sub-subparagraph,
 581 the distribution amount shall be equal to factor (i) for each
 582 applicable member multiplied by the sum of factor (ii) and the
 583 positive difference, if any, between factor (iii) and 7 percent.
 584 For purposes of both calculations, factor (i) is the actuarial
 585 present value determined in sub-subparagraph 1.b. for the
 586 respective group. Factor (ii) is one-half of the investment
 587 return rate in sub-subparagraph 1.a. in excess of 9 percent.
 588 Factor (iii) is the rate of investment return in sub-
 589 subparagraph 1.a., not to exceed 9 percent. The distribution
 590 amount shall not exceed accumulated net actuarial experience
 591 from all pension liabilities and assets. If the net actuarial
 592 experience is favorable, cumulatively, commencing with the
 593 experience for the year ended September 30, 1985, after offset
 594 for all prior supplemental distributions, the supplemental
 595 distribution may be made. If the net actuarial experience is
 596 unfavorable, cumulatively, commencing with the experience for
 597 the year ended September 30, 1985, after offset for all prior
 598 supplemental distributions, no supplemental distribution may be
 599 made, and the City must amortize the loss until it is offset by
 600 cumulative favorable experience.

601
 602 If an actuarial report submitted as provided in this paragraph
 603 is not state accepted prior to distribution, and if a deficiency
 604 to the Pension Fund results, the deficiency shall be made up
 605 from the next available supplemental pension distribution,
 606 unless sooner made up by agreement between the Board of Trustees
 607 and the City. No such deficiency shall be permitted to continue
 608 for a period of greater than 3 years from the date of payment of

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609 the supplemental pension distribution which resulted in the
 610 deficiency.

611 2. The Board of Trustees shall determine annually if there
 612 is to be a supplemental pension distribution. The supplemental
 613 pension distribution is that portion of the distribution amount,
 614 as defined in sub-subparagraph 1.c., to be distributed to
 615 eligible persons.

616 3. Eligible persons are:

- 617 a. Pensioners.
- 618 b. Surviving spouses.
- 619 c. Surviving dependent children.
- 620 d. Surviving dependent parents.
- 621 e. Pensioners' estates for the year following death only.

622
 623 Eligible persons are initially eligible if they have been in
 624 receipt of a pension for at least 1 year on the first
 625 distribution date following their retirement. A survivor
 626 beneficiary of a deceased retired member shall be considered to
 627 have been in receipt of a pension for at least 1 year if at
 628 least 12 monthly pension payments have been made on account of
 629 the retirement. A surviving spouse may count the retirement
 630 period, if any, of the deceased member toward the 1-year
 631 requirement. Surviving spouses, children, and parents and
 632 retired members who receive pension adjustments under the prior
 633 escalator clause are not eligible for the supplemental pension
 634 distribution.

635 4. The supplemental pension distribution dates shall be
 636 the April 1 following the effective date of this subsection and
 637 each April 1 thereafter. Each eligible person shall be paid his

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638 or her allocated portion of the applicable supplemental pension
639 distribution amount from the preceding September 30. A
640 pensioner's estate is entitled to a pro rata share of the
641 deceased retiree's supplemental pension distribution based on
642 the number of months that the deceased retiree received a
643 pension during the year ending the September 30 prior to the
644 pensioner's death after initial eligibility.

645 5. Each supplemental pension distribution amount shall be
646 allocated among the eligible persons in the proportion that an
647 eligible person's supplemental pension distribution points bears
648 to the aggregate amount of supplemental pension distribution
649 points of all eligible persons. An eligible person shall be
650 credited with supplemental pension distribution points as
651 follows:

652 a. Three and eighty-five hundredths of a point multiplied
653 by the service credit of the member at the time of retirement or
654 prior to death; however, in the computation of the supplemental
655 pension distribution due the in-line-of-duty pensioner, the
656 maximum service credit of 26 years shall be used.

657 b. Maximum service credit shall be 26 years.

658 c. Allocations for surviving spouses and surviving
659 dependent children who are eligible to receive supplemental
660 pension distributions shall be 75 percent of the years of
661 service earned by the pensioner. Allocations for duty death
662 beneficiaries (surviving spouse and surviving children) shall be
663 based upon 75 percent of 26 years of service.

664 (e) Payment of benefits.--

665 1. First payment.--Service pensions shall be payable on
666 the first day of each month. The first payment shall be payable

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667 on the first day of the month coincident with or next following
 668 the date of retirement, or death, provided the member has
 669 completed the applicable age and service requirements.

670 2. Last payment.--The last payment shall be the payment
 671 due next preceding the member's death, except that payments
 672 shall be continued to the designated beneficiary or
 673 beneficiaries if a 10-year certain benefit, a joint and survivor
 674 option, or beneficiary benefits, as applicable, are payable.

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

676 1. Married member.--The normal form of retirement benefit
 677 for a married member or for a member with a dependent child or
 678 children or parent or parents shall be a service pension and
 679 beneficiary benefits. The service benefit shall provide monthly
 680 payments for the life of the member. Thereafter, beneficiary
 681 benefits shall be paid as provided in subsection (7).

682 2. Unmarried member.--The normal form of retirement
 683 benefit for an unmarried member without a dependent child or
 684 children or parent or parents shall be a 10-year certain
 685 benefit. This benefit shall pay monthly benefits for the
 686 member's lifetime. In the event the member dies after his or her
 687 retirement but before receiving retirement benefits for a period
 688 of 10 years, the same monthly benefit shall be paid to the
 689 beneficiary or beneficiaries as designated by the member for the
 690 balance of such 10-year period or, if no beneficiary is
 691 designated, to heirs at law, or estate of the member, as
 692 provided in section 175.181, Florida Statutes.

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

694 1.a. In the event of normal, early, or disability
 695 retirement, in lieu of the normal form of retirement income

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696 payable as specified in paragraph (a), paragraph (b), paragraph
 697 (c), or subsection (6) and in lieu of the beneficiary benefits
 698 as specified in subsection (7), a member, upon written request
 699 to the Board and subject to the approval of the Board, may elect
 700 to receive a retirement income of equivalent actuarial value
 701 payable in accordance with one of the following options:

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

705 (II) Joint and survivor option.--A retirement income of a
 706 modified monthly amount, payable to the member during the joint
 707 lifetime of the member and a dependent joint pensioner
 708 designated by the member, and following the death of either of
 709 them, 100 percent, 75 percent, 66-2/3 percent, or 50 percent of
 710 such monthly amounts, payable to the survivor for the lifetime
 711 of the survivor.

712 b. The member, upon electing any option of this paragraph,
 713 shall designate the joint pensioner or beneficiary or
 714 beneficiaries to receive the benefit, if any, payable in the
 715 event of his or her death, and will have the power to change
 716 such designation from time to time; but any such change shall be
 717 deemed a new election and shall be subject to approval by the
 718 Board. Such designation shall name a joint pensioner or one or
 719 more primary beneficiaries where applicable. If a member has
 720 elected an option with a joint pensioner or beneficiary and his
 721 or her retirement income benefits have commenced, he or she may
 722 thereafter change the designated joint pensioner or beneficiary
 723 only twice.

724 c. The consent of a member's joint pensioner or

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725 beneficiary to any such change shall not be required. However,
 726 the spouse of a married member must consent to any election to
 727 waive a joint and survivor benefit by signing the election form
 728 before a notary public. The spouse's written consent must
 729 acknowledge the effect of such a waiver. Consent of the spouse
 730 shall not be required if the spouse cannot be located, or for
 731 such other circumstances as may be prescribed by the Secretary
 732 of the Treasury of the United States. Any consent by a spouse
 733 shall be effective only with respect to such spouse.

734 d. The Board may request such evidence of the good health
 735 of the joint pensioner that is being added as it may require;
 736 and the amount of the retirement income payable to the member
 737 upon the designation of a new joint pensioner shall be
 738 actuarially redetermined, taking into account the age and sex of
 739 the former joint pensioner, the new joint pensioner, and the
 740 member. Each such designation shall be filed with the Board. In
 741 the event that no designated beneficiary survives the member,
 742 such benefits as are payable in the event of the death of the
 743 member subsequent to his or her retirement shall be paid as
 744 provided in subparagraph (h)2.

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

748 a. If a member dies prior to his or her normal retirement
 749 date or early retirement date, whichever first occurs,
 750 retirement benefits shall be paid in accordance with subsection
 751 (7).

752 b. If the designated beneficiary or beneficiaries or joint
 753 pensioner dies before the member's retirement, the option

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754 elected shall be canceled automatically and a retirement income
 755 of the normal form and amount shall be payable to the member
 756 upon the member's retirement as if the election had ~~has~~ not been
 757 made, unless a new election is made in accordance with the
 758 provisions of this paragraph or a new beneficiary is designated
 759 by the member prior to retirement.

760 c. If a member continues in the employ of the Department
 761 after meeting the age and service requirements set forth in
 762 paragraph (a) or paragraph (c) and dies prior to the member's
 763 actual retirement, and while an option made pursuant to this
 764 subparagraph is in effect, monthly retirement income payments
 765 shall be paid, under the option, to a beneficiary or
 766 beneficiaries designated by the member in the amount or amounts
 767 computed as if the member has retired under the option on the
 768 date on which the member's death occurred.

769 3. No member may make any change in his or her retirement
 770 option after the date of cashing or depositing the first
 771 retirement check.

772 (h) Designation of beneficiary.--

773 1. Each member may, on a form provided for that purpose,
 774 signed and filed with the Board, designate a beneficiary or
 775 beneficiaries to receive the benefit, if any, which may be
 776 payable in the event of the member's death; and each designation
 777 may be revoked by such member by signing and filing with the
 778 Board a new designation of beneficiary form. However, after the
 779 benefits have commenced, a retirant may change his or her
 780 designation of joint annuitant or beneficiary only twice. If the
 781 retirant desires to change his or her joint annuitant or
 782 beneficiary, the retirant shall file with the Board a notarized

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783 notice of such change either by registered letter or on a form
 784 as provided by the Board. Upon receipt of a completed change of
 785 joint annuitant form or such other notice, the Board shall
 786 adjust the member's monthly benefit by the application of
 787 actuarial tables and calculations developed to ensure that the
 788 benefit paid is the actuarial equivalent of the present value of
 789 the member's current benefit.

790 2. Absence or death of beneficiary.--If a deceased member
 791 fails to name a beneficiary in the manner prescribed in
 792 subparagraph 1., or if the beneficiary or beneficiaries named by
 793 a deceased member predecease the member, the beneficiary
 794 benefits, if any, which may be payable with respect to such
 795 deceased member may be paid, in the discretion of the Board to:

796 a. The spouse or dependent child or children of the
 797 member;

798 b. The dependent living parent or parents of the member;
 799 or

800 c. The estate of the member.

801 (i) Refund of contributions.--In the event a member leaves
 802 the employ of the Department or dies with less than 10 years of
 803 credited service, and no service pension, disability pension, or
 804 beneficiary benefit is payable, the contributions made by him or
 805 her to the Fund shall be refunded, without interest (less any
 806 disability payments paid to the member), to the member or, in
 807 the event of death, to the beneficiary or to the member's
 808 estate.

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

810 1. Individual member accounts.--A separate account shall
 811 be established and maintained in each member's name effective on

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812 or after October 1, 1988.

813 2. Share account funding.--

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

817 b. In addition, any forfeitures as provided in
818 subparagraph 5. shall be credited to the individual member
819 accounts in accordance with the formula set forth in
820 subparagraph 3.

821 3. Annual allocation of accounts.--

822 a. Moneys shall be credited to each individual member
823 account in an amount directly proportionate to the number of pay
824 periods for which the member was paid compared to the total
825 number of pay periods for which all members were paid, counting
826 the pay periods in the calendar year preceding the date for
827 which chapter 175, Florida Statutes, tax revenues were received.
828 For the fiscal year beginning October 1, 2003, and ending
829 September 30, 2004, share account allocations shall only be made
830 to DROP members who elect not to convert in accordance with sub-
831 subparagraph (5)(a)2.b. For purposes of determining the pro rata
832 share for those share account allocations during the fiscal year
833 beginning October 1, 2003, and ending September 30, 2004, the
834 pay periods of all active firefighters, including DROP members,
835 shall be used. Share account allocations made on and after
836 October 1, 2004, shall be made to each individual share account.

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

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841 c. Effective October 1, 2002, vested participants have the
 842 option to select one of three methods to credit investment
 843 earnings to their account. The method may be changed each year
 844 effective October 1; however, the method must be elected prior
 845 to October 1. The methods are:

846 (I) The investment earnings or losses credited to the
 847 individual member accounts shall be in the same percentage as
 848 are earned or lost by the total investment earnings or losses of
 849 the Fund as a whole, unless the Board dedicates a separate
 850 investment portfolio for chapter 175, Florida Statutes, share
 851 accounts, in which case the investment earnings or losses shall
 852 be measured by the investment earnings or losses of the separate
 853 investment portfolio;

854 (II) A fixed annual rate of 8.25 percent; or

855 (III) A percentage of the share account assets to be
 856 credited with earnings or losses in accordance with sub-sub-
 857 subparagraph (I) and a corresponding percentage of the share
 858 account assets credited in accordance with sub-sub-subparagraph
 859 (II). The combined total percentage invested under this sub-sub-
 860 subparagraph must equal 100 percent.

861 d. Costs, fees, and expenses of administration shall be
 862 debited from the individual member accounts on a proportionate
 863 basis, taking the cost, fees, and expenses of administration of
 864 the Fund as a whole, multiplied by a fraction, the numerator of
 865 which is the total assets in all individual member accounts and
 866 the denominator of which is the total assets of the Fund as a
 867 whole. The proportionate share of the costs, fees, and expenses
 868 shall be debited from each individual member account on a pro
 869 rata basis in the same manner as chapter 175, Florida Statutes,

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870 tax revenues are credited to each individual member account
 871 (i.e., based on pay periods).

872 e. If the entire balance of the individual member account
 873 is withdrawn before September 30 of any year, there shall be no
 874 adjustment made to that individual member account to reflect
 875 either investment earnings or losses or costs, fees, and
 876 expenses of administration.

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

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

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

886 (I) A nonduty disability pension as provided in paragraph
 887 (6)(a); or

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

890 c. The member has any credited service and is eligible to
 891 receive either:

892 (I) A duty disability pension as provided in paragraph
 893 (6)(c); or

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

896 5. Forfeitures.--Any member who has less than 10 years of
 897 credited service and who is not eligible for payment of benefits
 898 after termination of employment with the City shall forfeit his

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899 or her individual member account. The amounts credited to said
 900 individual member account shall be redistributed to the other
 901 individual member accounts in the same manner as chapter 175,
 902 Florida Statutes, tax revenues are credited (i.e., based on pay
 903 periods). However, the assets shall first be used to ensure that
 904 the former member's refund of contributions has not actuarially
 905 adversely impacted the payment for the extra benefits. If there
 906 has been an adverse impact, the shortfall shall be made up first
 907 before the amounts are reallocated to active members.

908 6. Payment of benefits.--The normal form of benefit
 909 payment shall be a lump sum payment of the entire balance of the
 910 individual member account; or, upon the written election of the
 911 member, upon a form prescribed by the Board, payment may be made
 912 either by:

913 a. Installments.--The account balance shall be paid out to
 914 the member in three equal payments paid over 3 years, the first
 915 payment to be made upon approval of the Board; or

916 b. Annuity.--The account balance shall be paid out in
 917 monthly installments over the lifetime of the member or until
 918 the entire balance is exhausted. The monthly amount paid shall
 919 be determined by the Fund's actuary in accordance with
 920 selections made by the member in a form provided by the Board.

921 7. Death of a member.--If a member dies and is eligible
 922 for benefits from the individual member account, the entire
 923 balance of the individual member account shall be paid in a lump
 924 sum to the beneficiaries designated in accordance with paragraph
 925 (h). If a member fails to designate a beneficiary or, if the
 926 beneficiary predeceases the member, the entire balance shall be
 927 paid in a lump sum in the following order:

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- 928 a. To the spouse;
- 929 b. If there is no spouse or the spouse is not alive, to
- 930 the member's surviving child or children on a pro rata basis;
- 931 c. If there are no children or no child is alive, to the
- 932 member's parent or parents; or
- 933 d. If no parent is alive, to the estate of the member.
- 934 (k) Deferred Retirement Option Plan (DROP).--Effective
- 935 upon the ratification of the collective bargaining agreement
- 936 between the City of West Palm Beach and the West Palm Beach
- 937 Association of Firefighters, Local 727-IAFF, October 1, 2003-
- 938 September 30, 2006, no new members may enter into the DROP.
- 939 Existing DROP members on the ratification date shall have the
- 940 option to remain in the DROP for the remainder of their
- 941 individual 5-year terms in accordance with the provisions of
- 942 subparagraph (5)(a)2.
- 943 1. Eligibility to participate in the DROP.--
- 944 a. Any member who is eligible to receive an early or
- 945 normal retirement pension may participate in the DROP. Members
- 946 shall elect to participate by applying to the Board of Trustees
- 947 on a form provided for that purpose.
- 948 b. Election to participate shall be forfeited if not
- 949 exercised within the first 35 years of combined credited
- 950 service.
- 951 c. A member shall not participate in the DROP beyond the
- 952 time of attaining 37 years of service and the total years of
- 953 participation in the DROP shall not exceed 5 years. For example:
- 954 (I) Members with 32 years of credited service at the time
- 955 of entry shall participate for only 5 years.

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

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

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

962 d. Upon a member's election to participate in the DROP, he
 963 or she shall cease to be a member and shall no longer accrue any
 964 benefits under the Pension Fund, except for the benefits
 965 provided under paragraph (j) of this subsection, chapter 175,
 966 Florida Statutes, share accounts. For all Fund purposes, the
 967 member becomes a retirant, except that a DROP participant shall
 968 continue to receive shares of the chapter 175, Florida Statutes,
 969 money in accordance with paragraph (j), chapter 175, Florida
 970 Statutes, share accounts. The amount of credited service and
 971 final average salary shall freeze as of the date of entry into
 972 the DROP.

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

975 a. Monthly retirement benefits that would have been
 976 payable had the member terminated employment with the Department
 977 and elected to receive monthly pension payments shall be paid
 978 into the DROP and credited to the retirant. Payments into the
 979 DROP shall be made monthly over the period the retirant
 980 participates in the DROP, up to a maximum of 60 months.

981 b. Effective October 1, 2002, participants have the option
 982 to select one of three methods to credit investment earnings to
 983 their account. Investment earnings shall be credited on a
 984 quarterly basis. The method may be changed each year effective

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985 | October 1; however, the method must be elected prior to October

986 | 1. The methods are:

987 | (I) Earnings using the rate of investment return earned on
988 | Pension Fund assets as reported by the Fund's investment
989 | monitor. DROP assets are commingled with the Pension Fund assets
990 | for investment purposes;

991 | (II) A fixed rate of 8.25 percent; or

992 | (III) A percentage of the DROP account assets to be
993 | credited with earnings or losses in accordance with sub-sub-
994 | subparagraph (I) and a corresponding percentage of the DROP
995 | account assets credited in accordance with sub-sub-subparagraph
996 | (II). The combined total percentage invested under this sub-sub-
997 | subparagraph must equal 100 percent.

998 |
999 | However, if a member does not terminate employment at the end of
1000 | participation in the DROP, interest credit shall cease on the
1001 | balance.

1002 | c. No payments shall be made from the DROP until the
1003 | member terminates employment with the Department.

1004 | d. Upon termination of employment, participants in the
1005 | DROP shall receive the balance of the DROP account in accordance
1006 | with the following rules:

1007 | (I) Members may elect to begin to receive payment upon
1008 | termination of employment or defer payment of the DROP until the
1009 | latest day under sub-sub-subparagraph (III).

1010 | (II) Payments shall be made in either:

1011 | (A) Lump sum.--The entire account balance shall be paid to
1012 | the retirant upon approval of the Board of Trustees.

1013 | (B) Installments.--The account balance shall be paid out

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1014 to the retirant in three equal payments paid over 3 years, the
 1015 first payment to be made upon approval of the Board of Trustees.

1016 (C) Annuity.--The account balance shall be paid out in
 1017 monthly installments over the lifetime of the member or until
 1018 the entire balance is exhausted. Monthly amount paid will be
 1019 determined by the Fund's actuary in accordance with selections
 1020 made by the member in a form provided by the Board of Trustees.

1021 (III) Any form of payment selected by a member must comply
 1022 with the minimum distribution requirements of the IRC 401(A)(9),
 1023 and are subject to the requirements of subsection (19).

1024 (IV) The beneficiary of the DROP participant who dies
 1025 before payments from DROP begin shall have the same right as the
 1026 participant in accordance with subsection (7).

1027 e. Costs, fees, and expenses of administration shall be
 1028 debited from the individual member accounts on a proportionate
 1029 basis, taking the cost, fees, and expenses of administration of
 1030 the Fund as a whole, multiplied by a fraction, the numerator of
 1031 which is the total assets in all individual member accounts and
 1032 the denominator of which is the total assets of the Fund as a
 1033 whole.

1034 3. Loans from the DROP.--

1035 a. Availability of loans.--

1036 (I) Loans are available to members only after termination
 1037 of employment, provided the member had participated in the DROP
 1038 for a period of 12 months.

1039 (II) Loans may only be made from a member's own account.

1040 (III) There may be no more than one loan at a time.

1041 b. Amount of loan.--

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1042 (I) Loans may be made up to a maximum of 50 percent of
1043 account balance.

1044 (II) The maximum dollar amount of a loan is \$50,000,
1045 reduced by the highest outstanding loan balance during the last
1046 12 months.

1047 (III) The minimum amount of a loan is \$5,000.

1048 c. Limitation on loans.--Loans shall be made from the
1049 amounts paid into the DROP and earnings thereon.

1050 d. Term of ~~the~~ loan.--

1051 (I) A ~~The~~ loan must be for at least 1 year.

1052 (II) A ~~The~~ loan shall be for no longer than 5 years.

1053 e. Loan interest rate.--

1054 (I) The interest rate shall be fixed at the time the loan
1055 is originated for the entire term of the loan.

1056 (II) The interest rate shall be equal to the lowest prime
1057 rate published by the Wall Street Journal on the last day of
1058 each calendar quarter preceding the date of the loan
1059 application.

1060 f. Defaults of loans.--

1061 (I) A loan ~~Loans~~ shall be in default if 2 consecutive
1062 months of months' repayments are missed or if a total of 4
1063 months of months' repayments is ~~are~~ missed.

1064 (II) Upon default, the entire balance of the loan becomes
1065 due and payable immediately.

1066 (III) If a loan in default is not repaid in full
1067 immediately, the loan may be canceled and the outstanding
1068 balance treated as a distribution, which may be taxable.

1069 (IV) Upon default of a loan, a member shall not be
1070 eligible for additional loans.

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1071 g. Miscellaneous provisions.--

1072 (I) All loans must be evidenced by a written loan

1073 agreement signed by the member and the Board of Trustees. The

1074 agreement shall contain a promissory note.

1075 (II) A member's spouse must consent in writing to the

1076 loan. The consent shall acknowledge the effect of the loan on

1077 the member's account balance.

1078 (III) Loans shall be considered general assets of the

1079 Fund.

1080 (IV) Loans shall be subject to administrative fees to be

1081 set by the Board of Trustees.

1082 4. After-tax contributions to the DROP.--

1083 a. A member may make after-tax contributions to the DROP.

1084 The maximum amount that may be contributed is the lesser of:

1085 (I) The IRS 415(c) limit.

1086 (II) The amount allowable under IRC 401(m).

1087 b. After-tax contributions to the DROP shall earn interest

1088 in the same manner as set forth in sub-subparagraph 2.b.

1089 c. Distributions to members or their beneficiaries of

1090 after-tax contributions may be withdrawn at any time on or after

1091 termination of employment. However, payments must be made at

1092 least as promptly as required under subsection (19).

1093 d. Loans shall not be made against after-tax

1094 contributions.

1095 (1) Backwards Deferred Retirement Option Plan

1096 (BackDROP).--

1097 1. Eligibility to participate in the BackDROP.--

1098 a. Any member who has attained age 53 with 18 or more

1099 years of service, who has attained age 58 with 13 or more years

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1100 of service, or who has acquired 26 years of service regardless
 1101 of age may participate in the BackDROP. Members shall elect to
 1102 participate by applying to the Board of Trustees on a form
 1103 provided for that purpose. A member may not participate in both
 1104 the DROP and the BackDROP.

1105 b. Election to participate shall be forfeited if not
 1106 exercised within the first 28 years of credited service.
 1107 However, a member who is actively employed by the Department on
 1108 October 1, 2003, may elect to participate in the BackDROP beyond
 1109 the 28th year as follows: the member may elect to participate in
 1110 the benefit for 3 full years in the 29th year of employment, for
 1111 1 full year in the 30th year of employment, and after the 30th
 1112 year of employment all elections to participate in the BackDROP
 1113 end.

1114 c. A member shall not be eligible to receive a BackDROP
 1115 benefit that is greater than an accumulation of 60 months of the
 1116 monthly retirement benefit. A member shall not be eligible to
 1117 receive a benefit which is less than an accumulation of 36
 1118 months of the monthly retirement benefit, except for the
 1119 reduction of benefits as defined in sub-subparagraph b.

1120 d. Member contributions shall continue throughout the
 1121 period of employment and are not refundable for the BackDROP
 1122 period.

1123 e. Members who elect to participate in the BackDROP must
 1124 retire and terminate employment to be eligible for payment of
 1125 the benefit.

1126 f. Any member who terminates employment by any means,
 1127 including death, prior to attaining age 53 with 18 or more years
 1128 of service or age 58 with 13 or more years of service or by

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1129 acquiring 26 years of service is not eligible to participate in
 1130 the BackDROP.

1131 2. Benefits payable upon election to participate in the
 1132 BackDROP.--

1133 a. Upon election to receive the BackDROP benefit, a
 1134 member's retirement benefits will be calculated as if the member
 1135 had chosen to retire and terminate employment at a date which is
 1136 more than 36 months but less than 60 months ~~3, 4, or 5 whole~~
 1137 ~~years~~ earlier. The number of months ~~years~~ to be applied is based
 1138 upon the member's election. The monthly pension amount shall be
 1139 multiplied by the number of months of BackDROP selected by the
 1140 member, which shall be between 36 and 60 months, inclusive ~~36,~~
 1141 ~~48, or 60, depending upon the member's election of 3, 4, or 5~~
 1142 ~~years~~. The BackDROP benefit shall be calculated as a single sum,
 1143 including interest at the rate of 8.25 percent less expenses,
 1144 compounded annually for the period of BackDROP.

1145 b. No payments shall be made from the BackDROP until the
 1146 member terminates employment with the Department.

1147 c. Upon termination of employment, participants in the
 1148 BackDROP shall receive the balance of the BackDROP account in
 1149 accordance with the following rules:

1150 (I) Members may elect to receive payment upon termination
 1151 of employment or defer payment of the BackDROP until the latest
 1152 day under sub-sub-subparagraph (III).

1153 (II) Payments shall be made in either:

1154 (A) A lump sum.--The entire account balance shall be paid
 1155 to the retirant upon approval of the Board of Trustees.

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1156 (B) Installments.--The account balance shall be paid out
 1157 to the retirant in three equal payments paid over 3 years, the
 1158 first payment to be made upon approval of the Board of Trustees.

1159 (C) Annuity.--The account balance shall be paid out in
 1160 monthly installments over the lifetime of the member or until
 1161 the entire balance is exhausted. The monthly amount paid shall
 1162 be determined by the Fund's actuary in accordance with
 1163 selections made by the member in a form provided by the Board of
 1164 Trustees.

1165 (III) Any form of payment selected by a member must comply
 1166 with the minimum distribution requirements of the IRC 401(A)(9),
 1167 and are subject to the requirements of subsection (19).

1168 (IV) The beneficiary of the BackDROP member shall have the
 1169 same right as the participant in accordance with subsection (7).

1170 3. BackDROP earnings.--

1171 a. BackDROP members may select one of three methods to
 1172 credit investment earnings to their accounts. Investment
 1173 earnings shall be credited on a quarterly basis. The method may
 1174 be changed each year effective October 1; however, the method
 1175 must be elected prior to October 1. The methods are:

1176 (I) The BackDROP is credited with earnings and losses
 1177 using the rate of investment return earned on Pension Fund
 1178 assets as reported by the Fund's investment monitor. BackDROP
 1179 assets are commingled with the Pension Fund assets for
 1180 investment purposes;

1181 (II) A fixed rate of 8.25 percent; or

1182 (III) A percentage of the BackDROP account assets to be
 1183 credited with earnings or losses in accordance with sub-sub-
 1184 subparagraph (I) and a corresponding percentage of the BackDROP

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1185 account assets credited in accordance with sub-sub-subparagraph
 1186 (II). The combined total percentage invested under this sub-sub-
 1187 subparagraph must equal 100 percent.

1188 b. Costs, fees, and expenses of administration shall be
 1189 debited from the individual member BackDROP accounts on a
 1190 proportionate basis, taking the cost, fees, and expenses of
 1191 administration of the Fund as a whole, multiplied by a fraction,
 1192 the numerator of which is the total of assets in all individual
 1193 member accounts and the denominator of which is the total of
 1194 assets of the Fund as a whole.

1195 4. Loans from the BackDROP.--

1196 a. Availability of loans.--

1197 (I) Loans are available to members only after termination
 1198 of employment, provided the member had participated in the
 1199 BackDROP for a period of at least 12 months.

1200 (II) Loans may only be made from a member's own account.

1201 (III) There may be no more than one loan at a time.

1202 b. Amount of loan.--

1203 (I) Loans may be made up to a maximum of 50 percent of
 1204 account balance.

1205 (II) The maximum dollar amount of a loan is \$50,000,
 1206 reduced by the highest outstanding loan balance during the last
 1207 12 months.

1208 (III) The minimum amount of a loan is \$5,000.

1209 c. Limitation on loans.--Loans shall be made from the
 1210 amounts paid into the BackDROP and earnings thereon.

1211 d. Term of loan.--

1212 (I) A loan must be for at least 1 year.

1213 (II) A loan shall be for no longer than 5 years.

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1214 e. Loan interest rate.--

1215 (I) The interest rate shall be fixed at the time a loan is
1216 originated for the entire term of the loan.

1217 (II) The interest rate shall be equal to the lowest prime
1218 rate published by the Wall Street Journal on the last day of
1219 each calendar quarter preceding the date of the loan
1220 application.

1221 f. Defaults of loans.--

1222 (I) A loan shall be in default if 2 consecutive months of
1223 repayments are missed or if a total of 4 months of repayments is
1224 missed.

1225 (II) Upon default of a loan, the entire balance of the
1226 loan becomes due and payable immediately.

1227 (III) If a loan in default is not repaid in full
1228 immediately, the loan may be canceled and the outstanding
1229 balance treated as a distribution, which may be taxable.

1230 (IV) Upon default of a loan, a member shall not be
1231 eligible for additional loans.

1232 g. Miscellaneous provisions.--

1233 (I) All loans must be evidenced by a written loan
1234 agreement signed by the member and the Board of Trustees. The
1235 agreement shall contain a promissory note.

1236 (II) A member's spouse must consent in writing to the
1237 loan. The consent shall acknowledge the effect of the loan on
1238 the member's account balance.

1239 (III) Loans shall be considered general assets of the
1240 Fund.

1241 (IV) Loans shall be subject to administrative fees to be
1242 set by the Board of Trustees.

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1243 5. After-tax contributions to the BackDROP.--
 1244 a. A member may make after-tax contributions to the
 1245 BackDROP. The maximum amount that may be contributed is the
 1246 lesser of:
 1247 (I) The IRS 415(c) limit.
 1248 (II) The amount allowable under IRC 401(m).
 1249 b. After-tax contributions to the BackDROP shall earn
 1250 interest in the same manner as set forth in sub-subparagraph
 1251 3.a.
 1252 c. Distributions to members or their beneficiaries of
 1253 after-tax contributions may be withdrawn at any time on or after
 1254 termination of employment. However, payments must be made at
 1255 least as promptly as required under subsection (19).
 1256 d. Loans shall not be made against after-tax
 1257 contributions.
 1258 (6) Disability pensions, medical examinations, return to
 1259 work, etc.--
 1260 (a) Nonduty disability requirements.--Any member with 5 or
 1261 more years of service credit who is regularly employed in the
 1262 Department who becomes physically or mentally totally and
 1263 permanently disabled by illness, disease, or injury to perform
 1264 the duties of a firefighter shall, upon the member's application
 1265 to the Board, be retired with a pension provided for in this
 1266 paragraph, provided that after a medical examination of the
 1267 member made by or under the direction of a medical committee,
 1268 the medical committee reports to the Board, in writing, whether:
 1269 1. The member is wholly prevented from rendering useful
 1270 and efficient service as a firefighter; and
 1271 2. The member is likely to remain so disabled continuously

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1272 and permanently.

1273

1274 The Board may admit and consider any other evidence that it
 1275 deems appropriate. The final decision as to whether a member
 1276 meets the requirements for a nonduty disability pension rests
 1277 with the Board and shall be based on competent substantial
 1278 evidence on the record as a whole.

1279 (b) Nonduty disability pension benefits.--Upon retirement
 1280 on account of disability as provided in paragraph (a), a member
 1281 shall receive a disability pension computed according to
 1282 subparagraph (5)(a)1., notwithstanding that he or she might not
 1283 have attained age 50 years and might not have 15 or more years
 1284 of service credit. Further, if the member has at least 10 years
 1285 of service credit, the disability pension shall not be less than
 1286 25 percent of the member's average monthly salary at the time of
 1287 disability. A disability retiree may select optional forms of
 1288 benefits in accordance with paragraph (5)(g).

1289 (c) Duty disability requirements.--Any member who is
 1290 regularly employed in the Department and who becomes physically
 1291 or mentally totally and permanently disabled to perform the
 1292 duties of a firefighter by reason of an injury or disease
 1293 arising out of and in the course of the performance of his or
 1294 her duties as a firefighter in the employ of the City, shall,
 1295 upon his or her application to the Board, be retired with a
 1296 disability pension provided for in this paragraph, provided that
 1297 after a medical examination of the member made by or under the
 1298 direction of the medical committee, the medical committee
 1299 reports to the Board in writing, whether:

1300 1. The member is wholly prevented from rendering useful

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1301 and efficient service as a firefighter; and

1302 2. The member is likely to remain so disabled continuously
 1303 and permanently.

1304

1305 The Board shall admit and consider any other evidence that it
 1306 deems appropriate. Any condition or impairment of health of a
 1307 member caused by tuberculosis, hypertension, heart disease,
 1308 hepatitis, or meningococcal meningitis resulting in total
 1309 disability or death shall be presumed to have been accidental
 1310 and suffered in the line of duty unless the contrary is shown by
 1311 competent evidence, provided such member shall have successfully
 1312 passed a physical examination before entering into such service,
 1313 which examination failed to reveal any evidence of such
 1314 condition. In order to be entitled to the presumption in the
 1315 case of hepatitis, meningococcal meningitis, or tuberculosis,
 1316 the member must meet the requirements of section 112.181,
 1317 Florida Statutes. The final decision as to whether a member
 1318 meets the requirements for a disability pension rests with the
 1319 Board, based on competent substantial evidence on the record as
 1320 a whole.

1321 (d) Duty disability pension benefits.--Upon retirement on
 1322 account of disability, as provided in paragraph (c), a member
 1323 shall receive a monthly pension for the remainder of his or her
 1324 life, equal to the greater of the following:

1325 1. Sixty-five percent of the final average salary; or

1326 2. The sum of the following:

1327 a. Two and one-half percent of the member's final average
 1328 salary multiplied by the number of years, and fraction of a
 1329 year, of his or her service credit to a maximum of 26 years of

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1330 service, and 2 percent of his or her final average salary
 1331 multiplied by the number of years, and fraction of a year, in
 1332 excess of 26 years of service, for all years of service earned
 1333 through September 30, 1988; and

1334 b. Two percent of the member's final average salary
 1335 multiplied by the number of years, and fraction of a year, of
 1336 his or her service credit earned on or after October 1, 1988.

1337 (e) Medical committee.--The medical committee provided for
 1338 in this subsection shall consist of no less than two qualified
 1339 health professionals, one of whom shall be designated by the
 1340 Board and one by the member. If deemed necessary by the Board, a
 1341 third qualified health professional, selected by the two
 1342 committee members previously designated, may be named to the
 1343 medical committee. The medical committee shall report to the
 1344 Board the existence and degree of permanent physical impairment
 1345 of the member, if any, based upon the most recent edition of the
 1346 American Medical Association's Guide to the Evaluation of
 1347 Permanent Impairment, if applicable.

1348 (f) Exclusions from disability pensions.--No disability
 1349 pension shall be payable, either as a duty disability pension or
 1350 as a nonduty disability pension, if the disability is a result
 1351 of:

1352 1. Excessive and habitual use by the member of drugs,
 1353 intoxicants, or narcotics;

1354 2. Injury or disease sustained by the member while
 1355 willfully and illegally participating in fights, riots, or civil
 1356 insurrections or while committing a crime;

1357 3. Injury or disease sustained by the member while serving
 1358 in any armed forces;

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1359 4. Injury or disease sustained by the member after his or
1360 her employment has terminated;

1361 5. Injury or disease sustained by the member while working
1362 for anyone other than the City and arising out of such
1363 employment; or

1364 6. Injury or disease sustained by the member before coming
1365 to work for the City. This exclusion applies to duty disability
1366 applications only.

1367 (g) Payment of disability pensions.--Monthly disability
1368 retirement benefits shall be payable as of the date the Board
1369 determines that the member was entitled to a disability pension;
1370 however, the first payment shall actually be paid on the first
1371 day of the first month after the Board determines such
1372 entitlement. Any portion due for a partial month shall be paid
1373 together with the first payment. If the member recovers from the
1374 disability prior to his or her normal retirement date, the last
1375 payment shall be the payment due next preceding the date of such
1376 recovery or, if the member dies without recovering from his or
1377 her disability, then the following shall apply:

1378 1. Married member.--Beneficiary benefits as set forth in
1379 subsection (7) shall be paid if, at the time of death, the
1380 member was married or had a dependent child or children or
1381 parent or parents; or

1382 2. Unmarried member with 10 years of service or
1383 more.--Payments shall be made until the member's death or the
1384 120th monthly payment, whichever is later; or

1385 3. Unmarried member with less than 10 years of
1386 service.--Payments shall be made until the member's death.

1387

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1388 Any monthly retirement income payments due after the death of a
 1389 disabled member shall be paid to the member's designated
 1390 beneficiary or beneficiaries or the member's estate as provided
 1391 in paragraph (5)(h) or subsection (7), as applicable.

1392 (h) Reexamination of disability retirant.--At least once
 1393 each year during the first 5 years following a member's
 1394 retirement on account of disability, and at least once in each
 1395 3-year period thereafter, the Board shall require any disability
 1396 retirant who has not attained age 50 to undergo a medical
 1397 examination to be made by or under the direction of a physician
 1398 designated by the Board. However, if a disability retirant has
 1399 lost the firefighter certification, as required by Florida
 1400 Statutes, then the reexamination is discretionary. If the
 1401 retirant refuses to submit to the medical examination in any
 1402 such period, his or her disability pension may be suspended by
 1403 the Board until withdrawal of such refusal. If such refusal
 1404 continues for 1 year, all of the retirant's rights in and to a
 1405 disability pension may be revoked by the Board. If, upon medical
 1406 examination of the retirant, the physician reports to the Board
 1407 that the retirant is physically able and capable of performing
 1408 the duties of a firefighter in the rank held by him or her at
 1409 the time of retirement, the member shall be returned to
 1410 employment in the Department at a salary not less than the
 1411 salary of the rank last held by him or her, provided that return
 1412 to the employ of the Department shall be subject to the approval
 1413 of the Fire Chief. Should the retirant become employed by the
 1414 City, his or her disability pension shall terminate.

1415 (i) Return to work of a disability retirant; service
 1416 credit.--In the event a disability retirant is returned to

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1417 employment in the department, as provided in paragraph (h), his
 1418 or her service credit at the time of disability retirement shall
 1419 be restored to his or her credit. In the event he or she retired
 1420 under the provisions of paragraph (c), he or she shall be given
 1421 service credit for the period he or she was in receipt of a
 1422 disability pension. If he or she retired under the provisions of
 1423 paragraph (a), he or she shall not be given service credit for
 1424 the period he or she was in receipt of a disability pension.

1425 (j) Expenses of medical examinations for disability.--The
 1426 member shall be responsible for the expenses of the physician
 1427 the member designates for medical examinations required under
 1428 this subsection. Expenses for any other medical examinations
 1429 required under this subsection shall be paid by the Fund.

1430 (7) Beneficiary benefits.--

1431 (a) Death while in service; 5 years or more (nonduty).--In
 1432 the event a member with 5 or more years of service credit dies
 1433 while in the employ of the Department, and the Board finds his
 1434 or her death to have occurred as the result of causes arising
 1435 outside the performance of his or her duties as a firefighter in
 1436 the employ of the City, the following applicable pensions shall
 1437 be paid:

1438 1. Surviving spouse's benefits.--The surviving spouse
 1439 shall receive a pension equal to two-thirds of the pension the
 1440 member would otherwise have been entitled to receive under
 1441 paragraph (5)(a), as if the member had retired the day preceding
 1442 the date of his or her death, notwithstanding that the member
 1443 might not have met the age and service requirements for
 1444 retirement as specified in subsection (5). Upon the surviving
 1445 spouse's death, the pension shall terminate.

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1446 2. Benefits for children, surviving spouse, etc.--In the
1447 event the deceased member does not leave a surviving spouse, or
1448 if the surviving spouse shall die, and the member leaves an
1449 unmarried child or children under age 18, each such child shall
1450 receive a pension of an equal share of the pension to which said
1451 member's surviving spouse was or would have been entitled. Upon
1452 any such child's adoption, marriage, death, or attainment of age
1453 18, the child's pension shall terminate and said child's pension
1454 shall be apportioned to the deceased member's remaining eligible
1455 children under age 18.

1456 3. Benefits for dependent parents.--In the event a member
1457 dies and does not leave a surviving spouse or children eligible
1458 to receive a pension provided for in subparagraphs 1. and 2.,
1459 and the member leaves a parent or parents whom the Board finds
1460 to have been dependent upon the member for 50 percent or more of
1461 their financial support, each such parent shall receive a
1462 pension of an equal share of the pension to which the member's
1463 surviving spouse would have been entitled. Upon any such
1464 parent's remarriage or death, the parent's pension shall
1465 terminate.

1466 4. Estate.--In the event a member dies and does not leave
1467 a surviving spouse, children, or parents eligible to receive a
1468 pension provided for in subparagraph 1., subparagraph 2., or
1469 subparagraph 3., then the benefits remaining, if any, shall be
1470 paid to the member's estate.

1471 (b) Death in the line of duty.--In the event a member dies
1472 while in the employ of the Department, and the Board finds his
1473 or her death to be the natural and proximate result of causes
1474 arising out of and in the actual performance of duty as a

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1475 firefighter in the employ of the City, the following applicable
 1476 pensions shall be paid:

1477 1. Surviving spouse's benefits.--The surviving spouse
 1478 shall receive a monthly pension equal to the greater of:

1479 a. Sixty-six and two-thirds of the member's highest 12
 1480 months' salary or top step firefighter pay, whichever is
 1481 greater; or

1482 b. The surviving spouse's share of the member's accrued
 1483 benefit. Upon the surviving spouse's death, the pension shall
 1484 terminate.

1485 2. Benefits for children, surviving spouse, etc.--In the
 1486 event the deceased member does not leave a surviving spouse, or
 1487 if the surviving spouse shall die, and the member leaves an
 1488 unmarried child or children under age 18, each such child shall
 1489 receive a pension of an equal share of the pension to which the
 1490 member's surviving spouse was or would have been entitled. Upon
 1491 any such child's adoption, marriage, death, or attainment of age
 1492 18, the child's pension shall terminate and said child's pension
 1493 shall be apportioned to the deceased member's remaining eligible
 1494 children under age 18.

1495 3. Benefits for dependent parents.--In the event a member
 1496 dies and does not leave a surviving spouse or children eligible
 1497 to receive a pension provided for in subparagraphs 1. and 2.,
 1498 and the member leaves a parent or parents whom the Board finds
 1499 to have been dependent upon the member for 50 percent or more of
 1500 their financial support, each such parent shall receive a
 1501 pension of an equal share of the pension to which said member's
 1502 surviving spouse would have been entitled. Upon any such
 1503 parent's remarriage or death, the parent's pension shall

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1504 terminate.

1505 4. Estate.--In the event a member dies and does not leave
 1506 a surviving spouse, children, or parents eligible to receive a
 1507 pension provided for in subparagraph 1., subparagraph 2., or
 1508 subparagraph 3., then the benefits remaining, if any, shall be
 1509 paid to the member's estate.

1510 (c) Death after retirement.--Upon the death of a retirant,
 1511 the following applicable pensions shall be paid:

1512 1. Surviving spouse's benefits.--The surviving spouse
 1513 shall receive a pension equal to three-fourths of the retirant's
 1514 pension at the time of his or her death. Upon the surviving
 1515 spouse's death, the pension shall terminate.

1516 2. Benefits for children, surviving spouse, etc.--In the
 1517 event a deceased retirant does not leave a surviving spouse, or
 1518 if the surviving spouse shall die, and the retirant leaves an
 1519 unmarried child or children under age 18, each such child shall
 1520 receive a pension of an equal share of the pension to which the
 1521 retirant's surviving spouse was or would have been entitled.
 1522 Upon any such child's adoption, marriage, death, or attainment
 1523 of age 18, the child's pension shall terminate and said child's
 1524 pension shall be apportioned to the deceased retirant's
 1525 remaining eligible children under age 18.

1526 3. Benefits for dependent parents.--In the event a
 1527 retirant dies and does not leave a surviving spouse or children
 1528 eligible to receive a pension provided for in subparagraphs 1.
 1529 and 2., and the retirant leaves a parent or parents whom the
 1530 Board finds to have been dependent upon the retirant for 50
 1531 percent or more of their financial support, each such parent
 1532 shall receive a pension of an equal share of the pension to

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1533 which the retirant's surviving spouse would have been entitled.
 1534 Upon any such parent's remarriage or death, the parent's pension
 1535 shall terminate.

1536 4. Estate.--In the event a retirant dies and does not
 1537 leave a surviving spouse, children, or parents eligible to
 1538 receive a pension provided for in subparagraph 1., subparagraph
 1539 2., or subparagraph 3., then the benefits remaining, if any,
 1540 shall be paid to the retirant's estate.

1541 (8) Acceptance of pension no bar to subsequent work.--The
 1542 acceptance of a pension by a member upon retirement shall not
 1543 bar the member from engaging in any other business thereafter.

1544 (9) Pension not assignable or subject to garnishment.--The
 1545 pensions or other benefits accrued or accruing to any person
 1546 under the provision of this act and the accumulated
 1547 contributions and the cash securities in the Funds created under
 1548 this act shall not be subject to execution or attachment or to
 1549 any legal process whatsoever, and shall be unassignable.
 1550 However, pursuant to a court support order, the Trustees may
 1551 direct that the retirement benefits be paid for alimony or child
 1552 support in accordance with rules and regulations adopted by the
 1553 Board of Trustees.

1554 (10) Transfer of funds.--All funds and assets previously
 1555 owned and controlled by the West Palm Beach Firemen's Relief and
 1556 Pension Fund are vested in the Board of this Fund.

1557 (11) Ordinances applicable.--All ordinances of the City
 1558 applicable to chapter 175, Florida Statutes, are hereby made
 1559 applicable to this act with equal force and effect. No proposed
 1560 change or amendment to this act shall be adopted without
 1561 approval required by section 175.351(2), Florida Statutes.

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1562 (12) Existing benefits to continue.--This act, and any
 1563 amendments thereto, shall not be construed to decrease the
 1564 benefits payable to, or on account of, any member of the Fund.

1565 (13) Workers' compensation offset.--The pension benefits
 1566 payable under this act shall not be offset by workers'
 1567 compensation benefits payable on account of the disability or
 1568 death of a member except to the extent that the total of the
 1569 pension benefits and workers' compensation benefits exceed the
 1570 member's monthly average wage.

1571 (14) Actuarial valuations.--The Fund shall be actuarially
 1572 evaluated annually.

1573 (15) Review procedures.--

1574 (a) The applicant for benefits under this chapter may,
 1575 within 20 days after being informed of the denial of his or her
 1576 request for pension benefits, appeal the denial by filing a
 1577 reply to the proposed order with the pension's secretary. If no
 1578 appeal is filed within the time period, then the proposed order
 1579 shall be final.

1580 (b) The Board of Trustees shall hold a hearing within 45
 1581 days after the receipt of the appeal. Written notice of the
 1582 hearing shall be sent by certified mail return
 1583 receipt/restricted to individual, to the applicant at the
 1584 address listed on the application 10 days prior to the hearing.

1585 (c) The procedures at the hearing shall be as follows:

1586 1. All parties shall have an opportunity to respond, to
 1587 present physical and testimonial evidence and argument on all
 1588 issues involved, to conduct cross-examination, to submit
 1589 rebuttal evidence, and to be represented by counsel. Medical
 1590 reports and depositions may be accepted in lieu of live

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1591 testimony at the Board's discretion.

1592 2. All witnesses shall be sworn.

1593 3. The applicant and the Board shall have an opportunity
1594 to question all witnesses.

1595 4. Formal rules of evidence and formal rules of civil
1596 procedure shall not apply. The proceedings shall comply with the
1597 essential requirements of due process and law.

1598 5. The record in a case governed by this subsection shall
1599 consist only of:

1600 a. A tape recording of the hearing, to be taped and
1601 maintained as part of the official files of the Board of
1602 Trustees by the pension's secretary.

1603 b. Evidence received or considered.

1604 c. All notices, pleadings, motions, and intermediate
1605 rulings.

1606 d. Any decisions, opinions, proposed or recommended
1607 orders, or reports by the Board of Trustees.

1608 (d) Within 5 days after the first hearing, the Board shall
1609 take one of the following actions:

1610 1. Grant the pension benefits by overturning the proposed
1611 order by a majority vote.

1612 2. Deny the benefits and approve the proposed order as a
1613 final order after making any changes in the order the Board
1614 feels is necessary.

1615 (e) Findings of fact by the Board shall be based on
1616 competent, substantial evidence on the record.

1617 (f) Within 20 calendar days after rendering its order, the
1618 Board of Trustees shall send to the applicant, by certified mail
1619 return receipt/restricted to individual, a copy of the order.

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1620 (g) The applicant may seek review of the order by the
 1621 Board of Trustees by filing a petition for writ of certiorari
 1622 with the circuit court within 30 days.

1623 (16) Lump sum payment of small retirement
 1624 income.--Notwithstanding any provision of the Fund to the
 1625 contrary, if the single sum value of the accrued retirement
 1626 income is less than \$5,000 as of the date of retirement or
 1627 termination of service, whichever is applicable, the Board of
 1628 Trustees, in the exercise of its discretion, may specify that
 1629 the actuarial equivalent of such retirement income be paid in
 1630 lump sum.

1631 (17) Pickup of employee contributions.--Effective the
 1632 first day of the first full payroll period of the first calendar
 1633 quarter following receipt of a favorable determination letter
 1634 from the Internal Revenue Service, the City shall pick up the
 1635 member contribution required by this section. The contributions
 1636 so picked up shall be treated as employer contributions in
 1637 determining tax treatment under the United States Internal
 1638 Revenue Code. The City shall pick up the member contributions
 1639 from funds established and available for salaries, which funds
 1640 would otherwise have been designated as member contributions and
 1641 paid to the Fund. Member contributions picked up by the City
 1642 pursuant to this subsection shall be treated for all other
 1643 purposes of making a refund of members' contributions, and for
 1644 all other purposes of this and other laws, in the same manner
 1645 and to the same extent as member contributions made prior to the
 1646 effective date of this subsection. The intent of this subsection
 1647 is to comply with section 414(H)(2) of the Internal Revenue
 1648 Code.

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1649 (18) Internal Revenue Code limits.--

1650 (a) In no event may a member's annual benefit exceed
 1651 \$160,000, adjusted for cost of living in accordance with
 1652 Internal Revenue Code ("IRC") Section 415(d).

1653 (b) If a member has less than 10 years of service with the
 1654 City, the applicable limitation in paragraph (a) shall be
 1655 reduced by multiplying such limitation by a fraction, not to
 1656 exceed 1. The numerator of such fraction shall be the number of
 1657 years, or part thereof, of service with the City; the
 1658 denominator shall be 10 years.

1659 (c) For purposes of this subsection, "annual benefit"
 1660 means a benefit payable annually in the form of a straight life
 1661 annuity with no ancillary or incidental benefits and with no
 1662 member or rollover contributions. To the extent that ancillary
 1663 benefits are provided, the limits set forth in paragraph (a)
 1664 shall be reduced actuarially, using an interest rate assumption
 1665 equal to the greater of 5 percent or the rate being used for
 1666 actuarial equivalence, to reflect such ancillary benefits.

1667 (d) If distribution of retirement benefits begins before
 1668 age 62, the dollar limitation as described in paragraph (a)
 1669 shall be reduced using an interest rate assumption equal to the
 1670 greater of 5 percent or the interest rate used for actuarial
 1671 equivalence; however, retirement benefits shall not be reduced
 1672 below \$75,000 if payment of benefits begins at or after age 55,
 1673 and not below the actuarial equivalent of \$75,000 if payment of
 1674 benefits begins before age 55. For a member with 15 or more
 1675 years of service with the City, the reductions described above
 1676 shall not reduce such member's benefit below \$50,000, adjusted
 1677 for cost of living in accordance with IRC Section 415(d), but

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1678 only for the year in which such adjustment is effective. If
 1679 retirement benefits begin after age 65, the dollar limitation of
 1680 paragraph (a) shall be increased actuarially by using an
 1681 interest assumption equal to the lesser of 5 percent or the rate
 1682 used for actuarial equivalence.

1683 (e) Compensation in excess of limitations set forth in
 1684 Section 401(a)(17) of the Internal Revenue Code shall be
 1685 disregarded. The limitation on compensation for an eligible
 1686 employee shall not be less than the amount which was allowed to
 1687 be taken into account hereunder as in effect on July 1, 1993.
 1688 "Eligible employee" is an individual who was a member before the
 1689 first plan year beginning after December 31, 1995.

1690 (19) Required distributions.--In accordance with IRC
 1691 Section 401(9)(C), any and all benefit payments shall begin by
 1692 the later of:

1693 (a) April 1 of the calendar year following the calendar
 1694 year of the member's retirement date; or

1695 (b) April 1 of the calendar year following the calendar
 1696 year in which the employee attains age 70 1/2.

1697 (20) Miscellaneous requirements.--

1698 (a) No benefit of any kind shall be payable from the
 1699 assets of the Pension Fund unless specifically provided for in
 1700 this act; however, the Board of Trustees, with the approval of
 1701 the City, may grant ad hoc benefits after a public hearing and
 1702 acceptance by the state of an actuarial impact statement
 1703 submitted pursuant to part VII of chapter 112, Florida Statutes.

1704 (b) The City may not offset any part of its required
 1705 annual contribution by the Fund's assets except as determined in
 1706 an actuarial valuation, the report for which is determined to be

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1707 state accepted pursuant to part VII of chapter 112, Florida
 1708 Statutes.

1709 (c) All provisions of this act and operations of the
 1710 Pension Fund shall be carried out in compliance with part VII of
 1711 chapter 112, Florida Statutes.

1712 (d) False or misleading statements made to obtain
 1713 retirement benefits prohibited.--

1714 1. It is unlawful for a person to willfully and knowingly
 1715 make, or cause to be made, or to assist, conspire with, or urge
 1716 another to make, or cause to be made, any false, fraudulent, or
 1717 misleading oral or written statement or to withhold or conceal
 1718 material information to obtain any benefit under this plan.

1719 2.a. A person who violates subparagraph 1. commits a
 1720 misdemeanor of the first degree, punishable as provided in
 1721 section 775.082 or section 775.083, Florida Statutes.

1722 b. In addition to any applicable criminal penalty, upon
 1723 conviction for a violation of subparagraph 1., a participant or
 1724 beneficiary of this plan may, in the discretion of the Board of
 1725 Trustees, be required to forfeit the right to receive any or all
 1726 benefits to which the person would otherwise be entitled under
 1727 this Plan. For the purposes of this sub-subparagraph,
 1728 "conviction" means a determination of guilt that is the result
 1729 of a plea or trial, regardless of whether adjudication is
 1730 withheld.

1731 (21) Rollover distributions.--

1732 (a) This subsection applies to distributions made on or
 1733 after January 1, 1993. Notwithstanding any provision of the Plan
 1734 to the contrary that would otherwise limit a distributee's
 1735 election under this subsection, a distributee may elect, at the

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1736 time and in the manner prescribed by the Board of Trustees, to
1737 have any portion of an eligible rollover distribution paid
1738 directly to an eligible retirement plan specified by the
1739 distributee in a direct rollover.

1740 (b)1. "Eligible rollover distribution" is any distribution
1741 of all or any portion of the balance to the credit of the
1742 distributee, except that an eligible rollover does not include
1743 any distribution that is one of a series of substantially equal
1744 periodic payments (not less frequently than annually) made for
1745 the life (or life expectancy) of the distributee or the joint
1746 lives (or joint life expectancies) of the distributee and the
1747 distributee's designated beneficiary, or for a specified period
1748 of 10 years or more; any distribution to the extent such
1749 distribution is required under section 401(a)(9) of the Code;
1750 and the portion of any distribution that is not includable in
1751 gross income.

1752 2. "Eligible retirement plan" is an individual retirement
1753 account described in section 408(a) of the Code, an individual
1754 retirement annuity described in section 408(b) of the Code, an
1755 annuity plan described in section 403(a) of the Code, or a
1756 qualified trust described in section 401(a) of the Code that
1757 accepts the distributee's eligible rollover distribution.
1758 However, in the case of an eligible rollover distribution to the
1759 surviving spouse, an "eligible retirement plan" is an individual
1760 retirement account or individual retirement annuity.

1761 3. "Distributee" includes an employee or former employee.
1762 In addition, the employee's or former employee's surviving
1763 spouse and the employee's or former employee's spouse or former
1764 spouse who is entitled to payment for alimony and child support

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1765 under a domestic relations order determined to be qualified by
 1766 this Fund are distributees with regard to the interest of the
 1767 spouse or former spouse.

1768 4. "Direct rollover" is a payment by the Plan to the
 1769 eligible retirement plan specified by the distributee.

1770 (22) Rollovers from qualified plans.--

1771 (a) A member may roll over all or part of his or her
 1772 assets in another qualified plan to his or her chapter 175,
 1773 Florida Statutes, share account, provided all of the following
 1774 requirements are met:

1775 1. Some or all of the amount distributed from the other
 1776 plan is rolled over to this plan no later than the 60th day
 1777 after distribution was made from the plan or, if distributions
 1778 are made in installments, no later than the 60th day after the
 1779 last distribution was made.

1780 2. The amount rolled over to the share account does not
 1781 include any amounts contributed by the member to the plan on a
 1782 posttax basis.

1783 3. The rollover is made in cash.

1784 4. The member certifies that the distribution is eligible
 1785 for a rollover.

1786 5. Amounts which the Trustee accepts as a rollover to this
 1787 Fund shall, along with any earnings allocated to the Trustee, be
 1788 fully vested at all times.

1789
 1790 The rollover may also be made to this plan from an individual
 1791 retirement account qualified under Code Section 408 when the
 1792 individual retirement was merely used as a conduit for funds
 1793 from another qualified plan and the rollover is made in

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1794 accordance with the rules provided in subparagraphs 1.-5.
 1795 Amounts rolled over may be segregated from other Fund assets.
 1796 The Trustee shall separately account for gains, losses, and
 1797 administrative expenses on these rollovers as provided for in
 1798 paragraphs (5)(d) and (j). In addition, the Fund may accept the
 1799 direct transfer of a member's benefits from another qualified
 1800 retirement plan or Internal Revenue Code section 457 plan. The
 1801 Fund shall account for direct transfers in the same manner as a
 1802 rollover and shall obtain certification from the member that the
 1803 amounts are eligible for a rollover or direct transfer to this
 1804 Fund.

1805 (b) Transfer of accumulated leave.--

1806 1. Members eligible to receive accumulated sick leave,
 1807 accumulated vacation leave, or any other accumulated leave
 1808 payable upon separation shall have the leave transferred to the
 1809 Fund up to the amount permitted by law. Any additional amounts
 1810 shall be paid directly to the member. Members on whose behalf
 1811 leave has been transferred shall maintain the entire amount of
 1812 the transferred leave balance in the DROP or Share Account.

1813 2. If a member on whose behalf the City makes a
 1814 transferred leave balance to the Plan dies after retirement or
 1815 other separation, then any person who would have received a
 1816 death benefit had the member died in service immediately prior
 1817 to the date of retirement or other separation shall be entitled
 1818 to receive an amount equal to the transferred leave balance in a
 1819 lump sum. In the case of a surviving spouse or former spouse, an
 1820 election may be made to transfer the leave balance to an
 1821 eligible retirement plan in lieu of the lump sum payment.
 1822 Failure to make such an election by the surviving spouse or

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1823 former spouse within 60 days after the member's death shall be
 1824 deemed an election to receive the lump sum payment.

1825 3. The Board, by rule, shall prescribe the method for
 1826 implementing the provisions of this paragraph.

1827 4. Amounts transferred under this section shall remain
 1828 invested in the Pension Fund for a period of not less than 1
 1829 year.

1830 (23) Actuarial assumptions.--The following actuarial
 1831 assumptions shall be used for all purposes in connection with
 1832 this Fund, effective October 1, 1998:

1833 (a) The period for amortizing current, future, and past
 1834 actuarial gains or losses shall be 20 years.

1835 (b) The assumed investment rate of return shall be 8.25
 1836 percent.

1837 (24) Prior firefighter service.--Unless otherwise
 1838 prohibited by law, the years, or fractional parts of years, that
 1839 a member previously served as a firefighter with the City during
 1840 a period of employment and for which accumulated contributions
 1841 were withdrawn from the fund, or the years, and fractional parts
 1842 of years, that a member served as a firefighter for this or any
 1843 other municipal, county, or state fire department or district or
 1844 any time served in the military service of the Armed Forces of
 1845 the United States shall be added to the years of credited
 1846 service, provided that the member contributes to the fund the
 1847 sum that would have been contributed, based on the member's
 1848 salary and the employee contribution rate in effect at the time
 1849 that the credited service is requested, had the member been a
 1850 member of this system for the years, or fractional parts of
 1851 years, for which the credit is requested, plus the amount

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1852 actuarially determined, such that the crediting of service does
 1853 not result in any cost to the fund, plus payment of costs for
 1854 all professional services rendered to the board in connection
 1855 with the purchase of years of credited service.

1856 (a) Payment by the member of the required amount may be
 1857 made within 6 months after the request for credit and in one
 1858 lump sum payment, or the member may buy back this time over a
 1859 period equal to the length of time being purchased or 5 years,
 1860 whichever is greater, at an interest rate which is equal to the
 1861 Fund's actuarial assumption. A member may request to purchase
 1862 some or all years of service.

1863 (b) The credit purchased under this section shall count
 1864 for all purposes, except vesting.

1865 (c) In no event, however, may credited service be
 1866 purchased pursuant to this section for prior service with any
 1867 other municipal, county, or state fire department or district,
 1868 if such prior service forms or will form the basis of a
 1869 retirement benefit or pension from another retirement system or
 1870 plan.

1871 (d) In the event that a member who is in the process of
 1872 purchasing service suffers a disability and is awarded a benefit
 1873 from the plan, the member shall not be required to complete the
 1874 buyback. However, contributions made prior to the date the
 1875 disability payment begins will be retained by the Fund.

1876 (e) If a member who has either completed the purchase of
 1877 service or is in the process of purchasing service terminates
 1878 before vesting, the member's contributions shall be refunded,
 1879 including the buyback contributions.

1880 (f) A request to purchase service may be made at any time

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1881 during the course of employment; however, the buyback is a one-
1882 time opportunity.

1883 Section 2. This act shall take effect upon becoming a law.