

1 A bill to be entitled

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

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

14  
 15 Section 1. Section 17 of chapter 24981 (1947), Laws of  
 16 Florida, as amended by chapters 2002-360, 2003-347, and 2004-  
 17 462, Laws of Florida, is amended to read:

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

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

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

29 | 1. "Actuarial equivalent value," "actuarial equivalence,"  
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  
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  
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  
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  
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  
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  
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  
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  
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  
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  
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,  
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  
 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  
 389 retirement system.

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

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

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

398           a. All corporate and association securities and mutual  
 399 fund shares shall be issued by a corporation or other legal  
 400 person, incorporated or otherwise, organized within the United  
 401 States and domiciled therein to the extent required by section  
 402 175.071(1)(b), Florida Statutes.

403           b. Not more than 10 percent of the total Fund principal at  
 404 market value shall be invested in any one issuing company other  
 405 than obligations of the United States or an agency thereof.

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

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

418           e. At least once every 3 years, the Board shall retain an  
 419 independent consultant professionally qualified to evaluate the  
 420 performance of its professional money manager or investment

421 | counsel. The independent consultant shall make recommendations  
 422 | to the Board at its next regularly scheduled meeting.

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

426 |       (d) Administrative expenses.--The administrative expenses  
 427 | of the Fund shall be paid by the Fund.

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

432 |       (5) Service pension.--

433 |       (a) Normal retirement.--

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

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

447 |       b. The sum of the following:



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

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

458 2. Any member who is actively employed by the Department  
459 on and after October 1, 2003, and who is a member of the DROP on  
460 or after that date, may elect one of the following transition  
461 benefits by making a written election within 45 days after the  
462 effective date of this special act on a form provided by the  
463 Board of Trustees. The right to elect the transition benefits  
464 contained in sub-subparagraph b. shall terminate if no written  
465 election is made within 45 days after the effective date of this  
466 act. In the event a member does not submit a timely written  
467 election, the member shall be deemed to have elected the  
468 transition benefits contained in sub-subparagraph a. below:

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

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

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

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

497  
498 The 4-percent benefit accrual factor in sub-subparagraph 1.a. is  
499 contingent on and subject to the adoption and maintenance of the  
500 assumptions set forth in subsection (23). If such assumptions  
501 are modified by legislative, judicial, or administrative agency  
502 action, and the modification results in increased City

503 contributions to the Pension Fund, the 4-percent accrual factor  
504 in sub-subparagraph 1.a. shall be automatically decreased  
505 prospectively, from the date of the action, to completely offset  
506 the increase in City contributions. However, in no event shall  
507 the benefit accrual factor in sub-subparagraph 1.a. be adjusted  
508 below 3.5 percent. To the extent that the benefit accrual factor  
509 is less than 4 percent, the supplemental pension distribution  
510 calculation under paragraph (d) shall be adjusted for employees  
511 who retire on or after October 1, 1998, and those employees who  
512 were members of the DROP on October 1, 1998. The adjustment  
513 shall be to decrease the minimum return of 8.25 percent needed  
514 to afford the supplemental pension distribution, when the amount  
515 of the reduction is zero if an employee has been credited with  
516 16 or more years with the 3-percent benefit accrual factor or  
517 1.25 percent if an employee has been credited with no more than  
518 a 2.5-percent benefit accrual factor. If an employee has been  
519 credited with less than 16 years at the 3-percent benefit  
520 accrual factor, then the accumulated amount over 2.5 percent for  
521 each year of service divided by .5 percent divided by 16  
522 subtracted from 1 multiplied by 1.25 percent is the reduction  
523 from 8.25 percent. An example of the calculation of the minimum  
524 return for supplemental pension distribution as described above  
525 is set forth in Appendix B to the collective bargaining  
526 agreement between the City of West Palm Beach and the West Palm  
527 Beach Association of Firefighters, Local 727-IAFF, October 1,  
528 2003-September 30, 2006.

529 (b) Vested deferred retirement.--A member who leaves the  
530 employ of the Department with 10 or more years of credited

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

539 (c) Early retirement.--Any member may retire from the  
540 service of the Department as of the first day of any calendar  
541 month which is prior to the member's normal retirement date but  
542 subsequent to the date as of which the member has both attained  
543 the age of 50 and has been a member of this Fund for 10  
544 continuous years. In the event of early retirement, the monthly  
545 amount of retirement income shall be computed as described in  
546 paragraph (a), taking into account his or her credited service  
547 to the date of actual retirement and his or her final average  
548 salary as of such date. The amount of retirement income shall be  
549 actuarially reduced to take into account the member's younger  
550 age and earlier commencement of retirement income benefits. The  
551 early retirement reduction shall be 3 percent for each year by  
552 which the member's age at retirement preceded the member's  
553 normal retirement age.

554 (d) Supplemental pension distribution.--

555 1.a. The actuary for the Pension Fund shall determine the  
556 rate of investment return earned on Pension Fund assets during  
557 the 12-month period ending each September 30. The rate  
558 determined shall be the rate reported in the most recent

559 actuarial report submitted pursuant to part VII of chapter 112,  
560 Florida Statutes.

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

569 c. A distribution amount shall be determined as of each  
570 September 30. For distributions made after October 1, 1998,  
571 there shall be two different calculations to determine the  
572 distribution amount. For those employees who retire on or after  
573 October 1, 1998, or who are part of the DROP on or after October  
574 1, 1998, the distribution amount shall be equal to factor (i)  
575 for each applicable member multiplied by the sum of factor (ii)  
576 and the positive difference, if any, between factor (iii) and  
577 8.25 percent. For those employees who have retired before  
578 October 1, 1998, except as provided in this sub-subparagraph,  
579 the distribution amount shall be equal to factor (i) for each  
580 applicable member multiplied by the sum of factor (ii) and the  
581 positive difference, if any, between factor (iii) and 7 percent.  
582 For purposes of both calculations, factor (i) is the actuarial  
583 present value determined in sub-subparagraph 1.b. for the  
584 respective group. Factor (ii) is one-half of the investment  
585 return rate in sub-subparagraph 1.a. in excess of 9 percent.  
586 Factor (iii) is the rate of investment return in sub-

587 | subparagraph 1.a., not to exceed 9 percent. The distribution  
588 | amount shall not exceed accumulated net actuarial experience  
589 | from all pension liabilities and assets. If the net actuarial  
590 | experience is favorable, cumulatively, commencing with the  
591 | experience for the year ended September 30, 1985, after offset  
592 | for all prior supplemental distributions, the supplemental  
593 | distribution may be made. If the net actuarial experience is  
594 | unfavorable, cumulatively, commencing with the experience for  
595 | the year ended September 30, 1985, after offset for all prior  
596 | supplemental distributions, no supplemental distribution may be  
597 | made, and the City must amortize the loss until it is offset by  
598 | cumulative favorable experience.

599 |  
600 | If an actuarial report submitted as provided in this paragraph  
601 | is not state accepted prior to distribution, and if a deficiency  
602 | to the Pension Fund results, the deficiency shall be made up  
603 | from the next available supplemental pension distribution,  
604 | unless sooner made up by agreement between the Board of Trustees  
605 | and the City. No such deficiency shall be permitted to continue  
606 | for a period of greater than 3 years from the date of payment of  
607 | the supplemental pension distribution which resulted in the  
608 | deficiency.

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

614 |         3. Eligible persons are:

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

620

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

633 | 4. The supplemental pension distribution dates shall be  
 634 | the April 1 following the effective date of this subsection and  
 635 | each April 1 thereafter. Each eligible person shall be paid his  
 636 | or her allocated portion of the applicable supplemental pension  
 637 | distribution amount from the preceding September 30. A  
 638 | pensioner's estate is entitled to a pro rata share of the  
 639 | deceased retiree's supplemental pension distribution based on  
 640 | the number of months that the deceased retiree received a  
 641 | pension during the year ending the September 30 prior to the  
 642 | pensioner's death after initial eligibility.

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

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

655           b. Maximum service credit shall be 26 years.

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

662           (e) Payment of benefits.--

663           1. First payment.--Service pensions shall be payable on  
664 the first day of each month. The first payment shall be payable  
665 on the first day of the month coincident with or next following  
666 the date of retirement, or death, provided the member has  
667 completed the applicable age and service requirements.

668           2. Last payment.--The last payment shall be the payment  
669 due next preceding the member's death, except that payments  
670 shall be continued to the designated beneficiary or



671 beneficiaries if a 10-year certain benefit, a joint and survivor  
 672 option, or beneficiary benefits, as applicable, are payable.

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

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

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

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

692 1.a. In the event of normal, early, or disability  
 693 retirement, in lieu of the normal form of retirement income  
 694 payable as specified in paragraph (a), paragraph (b), paragraph  
 695 (c), or subsection (6) and in lieu of the beneficiary benefits  
 696 as specified in subsection (7), a member, upon written request  
 697 to the Board and subject to the approval of the Board, may elect

698 | to receive a retirement income of equivalent actuarial value  
699 | payable in accordance with one of the following options:

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

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

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

722 |       c. The consent of a member's joint pensioner or  
723 | beneficiary to any such change shall not be required. However,  
724 | the spouse of a married member must consent to any election to  
725 | waive a joint and survivor benefit by signing the election form

726 before a notary public. The spouse's written consent must  
727 acknowledge the effect of such a waiver. Consent of the spouse  
728 shall not be required if the spouse cannot be located, or for  
729 such other circumstances as may be prescribed by the Secretary  
730 of the Treasury of the United States. Any consent by a spouse  
731 shall be effective only with respect to such spouse.

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

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

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

750 b. If the designated beneficiary or beneficiaries or joint  
751 pensioner dies before the member's retirement, the option  
752 elected shall be canceled automatically and a retirement income  
753 of the normal form and amount shall be payable to the member

754 upon the member's retirement as if the election had ~~has~~ not been  
755 made, unless a new election is made in accordance with the  
756 provisions of this paragraph or a new beneficiary is designated  
757 by the member prior to retirement.

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

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

770 (h) Designation of beneficiary.--

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

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

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

794 a. The spouse or dependent child or children of the  
795 member;

796 b. The dependent living parent or parents of the member;  
797 or

798 c. The estate of the member.

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

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

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

811           2. Share account funding.--

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

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

819           3. Annual allocation of accounts.--

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

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

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

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

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

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

859           d. Costs, fees, and expenses of administration shall be  
860 debited from the individual member accounts on a proportionate  
861 basis, taking the cost, fees, and expenses of administration of  
862 the Fund as a whole, multiplied by a fraction, the numerator of

863 | which is the total assets in all individual member accounts and  
 864 | the denominator of which is the total assets of the Fund as a  
 865 | whole. The proportionate share of the costs, fees, and expenses  
 866 | shall be debited from each individual member account on a pro  
 867 | rata basis in the same manner as chapter 175, Florida Statutes,  
 868 | tax revenues are credited to each individual member account  
 869 | (i.e., based on pay periods).

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

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

880 |       a. The member is eligible to receive a service pension as  
 881 | provided in this subsection;

882 |       b. The member has 5 or more years of credited service and  
 883 | is eligible to receive either:

884 |           (I) A nonduty disability pension as provided in paragraph  
 885 | (6) (a); or

886 |           (II) Beneficiary benefits for nonduty death as provided in  
 887 | paragraph (7) (a); or

888 |       c. The member has any credited service and is eligible to  
 889 | receive either:



890 (I) A duty disability pension as provided in paragraph  
891 (6) (c); or

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

894 5. Forfeitures.--Any member who has less than 10 years of  
895 credited service and who is not eligible for payment of benefits  
896 after termination of employment with the City shall forfeit his  
897 or her individual member account. The amounts credited to said  
898 individual member account shall be redistributed to the other  
899 individual member accounts in the same manner as chapter 175,  
900 Florida Statutes, tax revenues are credited (i.e., based on pay  
901 periods). However, the assets shall first be used to ensure that  
902 the former member's refund of contributions has not actuarially  
903 adversely impacted the payment for the extra benefits. If there  
904 has been an adverse impact, the shortfall shall be made up first  
905 before the amounts are reallocated to active members.

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

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

914 b. Annuity.--The account balance shall be paid out in  
915 monthly installments over the lifetime of the member or until  
916 the entire balance is exhausted. The monthly amount paid shall

917 | be determined by the Fund's actuary in accordance with  
 918 | selections made by the member in a form provided by the Board.

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

- 926 |       a. To the spouse;
- 927 |       b. If there is no spouse or the spouse is not alive, to  
 928 | the member's surviving child or children on a pro rata basis;
- 929 |       c. If there are no children or no child is alive, to the  
 930 | member's parent or parents; or
- 931 |       d. If no parent is alive, to the estate of the member.

932 |       (k) Deferred Retirement Option Plan (DROP).--Effective  
 933 | upon the ratification of the collective bargaining agreement  
 934 | between the City of West Palm Beach and the West Palm Beach  
 935 | Association of Firefighters, Local 727-IAFF, October 1, 2003-  
 936 | September 30, 2006, no new members may enter into the DROP.  
 937 | Existing DROP members on the ratification date shall have the  
 938 | option to remain in the DROP for the remainder of their  
 939 | individual 5-year terms in accordance with the provisions of  
 940 | subparagraph (5) (a) 2.

- 941 |       1. Eligibility to participate in the DROP.--
- 942 |       a. Any member who is eligible to receive an early or  
 943 | normal retirement pension may participate in the DROP. Members

944 shall elect to participate by applying to the Board of Trustees  
945 on a form provided for that purpose.

946 b. Election to participate shall be forfeited if not  
947 exercised within the first 35 years of combined credited  
948 service.

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

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

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

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

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

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

971 |           2. Amounts payable upon election to participate in the  
972 | DROP.--

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

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

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

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

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

996 |

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

1000 |       c. No payments shall be made from the DROP until the  
 1001 | member terminates employment with the Department.

1002 |       d. Upon termination of employment, participants in the  
 1003 | DROP shall receive the balance of the DROP account in accordance  
 1004 | with the following rules:

1005 |           (I) Members may elect to begin to receive payment upon  
 1006 | termination of employment or defer payment of the DROP until the  
 1007 | latest day under sub-sub-subparagraph (III).

1008 |           (II) Payments shall be made in either:

1009 |           (A) Lump sum.--The entire account balance shall be paid to  
 1010 | the retirant upon approval of the Board of Trustees.

1011 |           (B) Installments.--The account balance shall be paid out  
 1012 | to the retirant in three equal payments paid over 3 years, the  
 1013 | first payment to be made upon approval of the Board of Trustees.

1014 |           (C) Annuity.--The account balance shall be paid out in  
 1015 | monthly installments over the lifetime of the member or until  
 1016 | the entire balance is exhausted. Monthly amount paid will be  
 1017 | determined by the Fund's actuary in accordance with selections  
 1018 | made by the member in a form provided by the Board of Trustees.

1019 |           (III) Any form of payment selected by a member must comply  
 1020 | with the minimum distribution requirements of the IRC 401(A)(9),  
 1021 | and are subject to the requirements of subsection (19).

1022 |           (IV) The beneficiary of the DROP participant who dies  
 1023 | before payments from DROP begin shall have the same right as the  
 1024 | participant in accordance with subsection (7).

1025 e. Costs, fees, and expenses of administration shall be  
 1026 debited from the individual member accounts on a proportionate  
 1027 basis, taking the cost, fees, and expenses of administration of  
 1028 the Fund as a whole, multiplied by a fraction, the numerator of  
 1029 which is the total assets in all individual member accounts and  
 1030 the denominator of which is the total assets of the Fund as a  
 1031 whole.

1032 3. Loans from the DROP.--

1033 a. Availability of loans.--

1034 (I) Loans are available to members only after termination  
 1035 of employment, provided the member had participated in the DROP  
 1036 for a period of 12 months.

1037 (II) Loans may only be made from a member's own account.

1038 (III) There may be no more than one loan at a time.

1039 b. Amount of loan.--

1040 (I) Loans may be made up to a maximum of 50 percent of  
 1041 account balance.

1042 (II) The maximum dollar amount of a loan is \$50,000,  
 1043 reduced by the highest outstanding loan balance during the last  
 1044 12 months.

1045 (III) The minimum amount of a loan is \$5,000.

1046 c. Limitation on loans.--Loans shall be made from the  
 1047 amounts paid into the DROP and earnings thereon.

1048 d. Term of ~~the~~ loan.--

1049 (I) A ~~The~~ loan must be for at least 1 year.

1050 (II) A ~~The~~ loan shall be for no longer than 5 years.

1051 e. Loan interest rate.--

1052 (I) The interest rate shall be fixed at the time the loan  
 1053 is originated for the entire term of the loan.

1054 (II) The interest rate shall be equal to the lowest prime  
 1055 rate published by the Wall Street Journal on the last day of  
 1056 each calendar quarter preceding the date of the loan  
 1057 application.

1058 f. Defaults of loans.--

1059 (I) A loan ~~Loans~~ shall be in default if 2 consecutive  
 1060 months of months' repayments are missed or if a total of 4  
 1061 months of months' repayments is ~~are~~ missed.

1062 (II) Upon default, the entire balance of the loan becomes  
 1063 due and payable immediately.

1064 (III) If a loan in default is not repaid in full  
 1065 immediately, the loan may be canceled and the outstanding  
 1066 balance treated as a distribution, which may be taxable.

1067 (IV) Upon default of a loan, a member shall not be  
 1068 eligible for additional loans.

1069 g. Miscellaneous provisions.--

1070 (I) All loans must be evidenced by a written loan  
 1071 agreement signed by the member and the Board of Trustees. The  
 1072 agreement shall contain a promissory note.

1073 (II) A member's spouse must consent in writing to the  
 1074 loan. The consent shall acknowledge the effect of the loan on  
 1075 the member's account balance.

1076 (III) Loans shall be considered general assets of the  
 1077 Fund.

1078 (IV) Loans shall be subject to administrative fees to be  
 1079 set by the Board of Trustees.

1080 4. After-tax contributions to the DROP.--

1081 a. A member may make after-tax contributions to the DROP.

1082 The maximum amount that may be contributed is the lesser of:

1083 (I) The IRS 415(c) limit.

1084 (II) The amount allowable under IRC 401(m).

1085 b. After-tax contributions to the DROP shall earn interest

1086 in the same manner as set forth in sub-subparagraph 2.b.

1087 c. Distributions to members or their beneficiaries of

1088 after-tax contributions may be withdrawn at any time on or after

1089 termination of employment. However, payments must be made at

1090 least as promptly as required under subsection (19).

1091 d. Loans shall not be made against after-tax

1092 contributions.

1093 (1) Backwards Deferred Retirement Option Plan

1094 (BackDROP).--

1095 1. Eligibility to participate in the BackDROP.--

1096 a. Any member who has attained age 53 with 18 or more

1097 years of service, who has attained age 58 with 13 or more years

1098 of service, or who has acquired 26 years of service regardless

1099 of age may participate in the BackDROP. Members shall elect to

1100 participate by applying to the Board of Trustees on a form

1101 provided for that purpose. A member may not participate in both

1102 the DROP and the BackDROP.

1103 b. Election to participate shall be forfeited if not

1104 exercised within the first 28 years of credited service.

1105 However, a member who is actively employed by the Department on

1106 October 1, 2003, may elect to participate in the BackDROP beyond

1107 the 28th year as follows: the member may elect to participate in



1108 the benefit for 3 full years in the 29th year of employment, for  
 1109 1 full year in the 30th year of employment, and after the 30th  
 1110 year of employment all elections to participate in the BackDROP  
 1111 end.

1112 c. A member shall not be eligible to receive a BackDROP  
 1113 benefit that is greater than an accumulation of 60 months of the  
 1114 monthly retirement benefit. A member shall not be eligible to  
 1115 receive a benefit which is less than an accumulation of 36  
 1116 months of the monthly retirement benefit, except for the  
 1117 reduction of benefits as defined in sub-subparagraph b.

1118 d. Member contributions shall continue throughout the  
 1119 period of employment and are not refundable for the BackDROP  
 1120 period.

1121 e. Members who elect to participate in the BackDROP must  
 1122 retire and terminate employment to be eligible for payment of  
 1123 the benefit.

1124 f. Any member who terminates employment by any means,  
 1125 including death, prior to attaining age 53 with 18 or more years  
 1126 of service or age 58 with 13 or more years of service or by  
 1127 acquiring 26 years of service is not eligible to participate in  
 1128 the BackDROP.

1129 2. Benefits payable upon election to participate in the  
 1130 BackDROP.--

1131 a. Upon election to receive the BackDROP benefit, a  
 1132 member's retirement benefits will be calculated as if the member  
 1133 had chosen to retire and terminate employment at a date which is  
 1134 more than 36 months but less than 60 months ~~3, 4, or 5 whole~~  
 1135 ~~years~~ earlier. The number of months ~~years~~ to be applied is based

1136 upon the member's election. The monthly pension amount shall be  
 1137 multiplied by the number of months of BackDROP selected by the  
 1138 member, which shall be between 36 and 60 months, inclusive 36,  
 1139 ~~48, or 60, depending upon the member's election of 3, 4, or 5~~  
 1140 ~~years~~. The BackDROP benefit shall be calculated as a single sum,  
 1141 including interest at the rate of 8.25 percent less expenses,  
 1142 compounded annually for the period of BackDROP.

1143 b. No payments shall be made from the BackDROP until the  
 1144 member terminates employment with the Department.

1145 c. Upon termination of employment, participants in the  
 1146 BackDROP shall receive the balance of the BackDROP account in  
 1147 accordance with the following rules:

1148 (I) Members may elect to receive payment upon termination  
 1149 of employment or defer payment of the BackDROP until the latest  
 1150 day under sub-sub-subparagraph (III).

1151 (II) Payments shall be made in either:

1152 (A) A lump sum.--The entire account balance shall be paid  
 1153 to the retirant upon approval of the Board of Trustees.

1154 (B) Installments.--The account balance shall be paid out  
 1155 to the retirant in three equal payments paid over 3 years, the  
 1156 first payment to be made upon approval of the Board of Trustees.

1157 (C) Annuity.--The account balance shall be paid out in  
 1158 monthly installments over the lifetime of the member or until  
 1159 the entire balance is exhausted. The monthly amount paid shall  
 1160 be determined by the Fund's actuary in accordance with  
 1161 selections made by the member in a form provided by the Board of  
 1162 Trustees.

1163 (III) Any form of payment selected by a member must comply  
 1164 with the minimum distribution requirements of the IRC 401(A)(9),  
 1165 and are subject to the requirements of subsection (19).

1166 (IV) The beneficiary of the BackDROP member shall have the  
 1167 same right as the participant in accordance with subsection (7).

1168 3. BackDROP earnings.--

1169 a. BackDROP members may select one of three methods to  
 1170 credit investment earnings to their accounts. Investment  
 1171 earnings shall be credited on a quarterly basis. The method may  
 1172 be changed each year effective October 1; however, the method  
 1173 must be elected prior to October 1. The methods are:

1174 (I) The BackDROP is credited with earnings and losses  
 1175 using the rate of investment return earned on Pension Fund  
 1176 assets as reported by the Fund's investment monitor. BackDROP  
 1177 assets are commingled with the Pension Fund assets for  
 1178 investment purposes;

1179 (II) A fixed rate of 8.25 percent; or

1180 (III) A percentage of the BackDROP account assets to be  
 1181 credited with earnings or losses in accordance with sub-sub-  
 1182 subparagraph (I) and a corresponding percentage of the BackDROP  
 1183 account assets credited in accordance with sub-sub-subparagraph  
 1184 (II). The combined total percentage invested under this sub-sub-  
 1185 subparagraph must equal 100 percent.

1186 b. Costs, fees, and expenses of administration shall be  
 1187 debited from the individual member BackDROP accounts on a  
 1188 proportionate basis, taking the cost, fees, and expenses of  
 1189 administration of the Fund as a whole, multiplied by a fraction,  
 1190 the numerator of which is the total of assets in all individual

1191 member accounts and the denominator of which is the total of  
 1192 assets of the Fund as a whole.

1193 4. Loans from the BackDROP.--

1194 a. Availability of loans.--

1195 (I) Loans are available to members only after termination  
 1196 of employment, provided the member had participated in the  
 1197 BackDROP for a period of at least 12 months.

1198 (II) Loans may only be made from a member's own account.

1199 (III) There may be no more than one loan at a time.

1200 b. Amount of loan.--

1201 (I) Loans may be made up to a maximum of 50 percent of  
 1202 account balance.

1203 (II) The maximum dollar amount of a loan is \$50,000,  
 1204 reduced by the highest outstanding loan balance during the last  
 1205 12 months.

1206 (III) The minimum amount of a loan is \$5,000.

1207 c. Limitation on loans.--Loans shall be made from the  
 1208 amounts paid into the BackDROP and earnings thereon.

1209 d. Term of loan.--

1210 (I) A loan must be for at least 1 year.

1211 (II) A loan shall be for no longer than 5 years.

1212 e. Loan interest rate.--

1213 (I) The interest rate shall be fixed at the time a loan is  
 1214 originated for the entire term of the loan.

1215 (II) The interest rate shall be equal to the lowest prime  
 1216 rate published by the Wall Street Journal on the last day of  
 1217 each calendar quarter preceding the date of the loan  
 1218 application.

1219 | f. Defaults of loans.--  
 1220 | (I) A loan shall be in default if 2 consecutive months of  
 1221 | repayments are missed or if a total of 4 months of repayments is  
 1222 | missed.  
 1223 | (II) Upon default of a loan, the entire balance of the  
 1224 | loan becomes due and payable immediately.  
 1225 | (III) If a loan in default is not repaid in full  
 1226 | immediately, the loan may be canceled and the outstanding  
 1227 | balance treated as a distribution, which may be taxable.  
 1228 | (IV) Upon default of a loan, a member shall not be  
 1229 | eligible for additional loans.  
 1230 | g. Miscellaneous provisions.--  
 1231 | (I) All loans must be evidenced by a written loan  
 1232 | agreement signed by the member and the Board of Trustees. The  
 1233 | agreement shall contain a promissory note.  
 1234 | (II) A member's spouse must consent in writing to the  
 1235 | loan. The consent shall acknowledge the effect of the loan on  
 1236 | the member's account balance.  
 1237 | (III) Loans shall be considered general assets of the  
 1238 | Fund.  
 1239 | (IV) Loans shall be subject to administrative fees to be  
 1240 | set by the Board of Trustees.  
 1241 | 5. After-tax contributions to the BackDROP.--  
 1242 | a. A member may make after-tax contributions to the  
 1243 | BackDROP. The maximum amount that may be contributed is the  
 1244 | lesser of:  
 1245 | (I) The IRS 415(c) limit.  
 1246 | (II) The amount allowable under IRC 401(m).

1247 b. After-tax contributions to the BackDROP shall earn  
1248 interest in the same manner as set forth in sub-subparagraph  
1249 3.a.

1250 c. Distributions to members or their beneficiaries of  
1251 after-tax contributions may be withdrawn at any time on or after  
1252 termination of employment. However, payments must be made at  
1253 least as promptly as required under subsection (19).

1254 d. Loans shall not be made against after-tax  
1255 contributions.

1256 (6) Disability pensions, medical examinations, return to  
1257 work, etc.--

1258 (a) Nonduty disability requirements.--Any member with 5 or  
1259 more years of service credit who is regularly employed in the  
1260 Department who becomes physically or mentally totally and  
1261 permanently disabled by illness, disease, or injury to perform  
1262 the duties of a firefighter shall, upon the member's application  
1263 to the Board, be retired with a pension provided for in this  
1264 paragraph, provided that after a medical examination of the  
1265 member made by or under the direction of a medical committee,  
1266 the medical committee reports to the Board, in writing, whether:

1267 1. The member is wholly prevented from rendering useful  
1268 and efficient service as a firefighter; and

1269 2. The member is likely to remain so disabled continuously  
1270 and permanently.

1271  
1272 The Board may admit and consider any other evidence that it  
1273 deems appropriate. The final decision as to whether a member  
1274 meets the requirements for a nonduty disability pension rests

1275 | with the Board and shall be based on competent substantial  
 1276 | evidence on the record as a whole.

1277 |       (b) Nonduty disability pension benefits.--Upon retirement  
 1278 | on account of disability as provided in paragraph (a), a member  
 1279 | shall receive a disability pension computed according to  
 1280 | subparagraph (5)(a)1., notwithstanding that he or she might not  
 1281 | have attained age 50 years and might not have 15 or more years  
 1282 | of service credit. Further, if the member has at least 10 years  
 1283 | of service credit, the disability pension shall not be less than  
 1284 | 25 percent of the member's average monthly salary at the time of  
 1285 | disability. A disability retiree may select optional forms of  
 1286 | benefits in accordance with paragraph (5)(g).

1287 |       (c) Duty disability requirements.--Any member who is  
 1288 | regularly employed in the Department and who becomes physically  
 1289 | or mentally totally and permanently disabled to perform the  
 1290 | duties of a firefighter by reason of an injury or disease  
 1291 | arising out of and in the course of the performance of his or  
 1292 | her duties as a firefighter in the employ of the City, shall,  
 1293 | upon his or her application to the Board, be retired with a  
 1294 | disability pension provided for in this paragraph, provided that  
 1295 | after a medical examination of the member made by or under the  
 1296 | direction of the medical committee, the medical committee  
 1297 | reports to the Board in writing, whether:

1298 |           1. The member is wholly prevented from rendering useful  
 1299 | and efficient service as a firefighter; and

1300 |           2. The member is likely to remain so disabled continuously  
 1301 | and permanently.

1302 |

1303 The Board shall admit and consider any other evidence that it  
1304 deems appropriate. Any condition or impairment of health of a  
1305 member caused by tuberculosis, hypertension, heart disease,  
1306 hepatitis, or meningococcal meningitis resulting in total  
1307 disability or death shall be presumed to have been accidental  
1308 and suffered in the line of duty unless the contrary is shown by  
1309 competent evidence, provided such member shall have successfully  
1310 passed a physical examination before entering into such service,  
1311 which examination failed to reveal any evidence of such  
1312 condition. In order to be entitled to the presumption in the  
1313 case of hepatitis, meningococcal meningitis, or tuberculosis,  
1314 the member must meet the requirements of section 112.181,  
1315 Florida Statutes. The final decision as to whether a member  
1316 meets the requirements for a disability pension rests with the  
1317 Board, based on competent substantial evidence on the record as  
1318 a whole.

1319 (d) Duty disability pension benefits.--Upon retirement on  
1320 account of disability, as provided in paragraph (c), a member  
1321 shall receive a monthly pension for the remainder of his or her  
1322 life, equal to the greater of the following:

- 1323 1. Sixty-five percent of the final average salary; or
- 1324 2. The sum of the following:
  - 1325 a. Two and one-half percent of the member's final average  
1326 salary multiplied by the number of years, and fraction of a  
1327 year, of his or her service credit to a maximum of 26 years of  
1328 service, and 2 percent of his or her final average salary  
1329 multiplied by the number of years, and fraction of a year, in



1330 excess of 26 years of service, for all years of service earned  
 1331 through September 30, 1988; and

1332 b. Two percent of the member's final average salary  
 1333 multiplied by the number of years, and fraction of a year, of  
 1334 his or her service credit earned on or after October 1, 1988.

1335 (e) Medical committee.--The medical committee provided for  
 1336 in this subsection shall consist of no less than two qualified  
 1337 health professionals, one of whom shall be designated by the  
 1338 Board and one by the member. If deemed necessary by the Board, a  
 1339 third qualified health professional, selected by the two  
 1340 committee members previously designated, may be named to the  
 1341 medical committee. The medical committee shall report to the  
 1342 Board the existence and degree of permanent physical impairment  
 1343 of the member, if any, based upon the most recent edition of the  
 1344 American Medical Association's Guide to the Evaluation of  
 1345 Permanent Impairment, if applicable.

1346 (f) Exclusions from disability pensions.--No disability  
 1347 pension shall be payable, either as a duty disability pension or  
 1348 as a nonduty disability pension, if the disability is a result  
 1349 of:

1350 1. Excessive and habitual use by the member of drugs,  
 1351 intoxicants, or narcotics;

1352 2. Injury or disease sustained by the member while  
 1353 willfully and illegally participating in fights, riots, or civil  
 1354 insurrections or while committing a crime;

1355 3. Injury or disease sustained by the member while serving  
 1356 in any armed forces;

1357 4. Injury or disease sustained by the member after his or  
 1358 her employment has terminated;

1359 5. Injury or disease sustained by the member while working  
 1360 for anyone other than the City and arising out of such  
 1361 employment; or

1362 6. Injury or disease sustained by the member before coming  
 1363 to work for the City. This exclusion applies to duty disability  
 1364 applications only.

1365 (g) Payment of disability pensions.--Monthly disability  
 1366 retirement benefits shall be payable as of the date the Board  
 1367 determines that the member was entitled to a disability pension;  
 1368 however, the first payment shall actually be paid on the first  
 1369 day of the first month after the Board determines such  
 1370 entitlement. Any portion due for a partial month shall be paid  
 1371 together with the first payment. If the member recovers from the  
 1372 disability prior to his or her normal retirement date, the last  
 1373 payment shall be the payment due next preceding the date of such  
 1374 recovery or, if the member dies without recovering from his or  
 1375 her disability, then the following shall apply:

1376 1. Married member.--Beneficiary benefits as set forth in  
 1377 subsection (7) shall be paid if, at the time of death, the  
 1378 member was married or had a dependent child or children or  
 1379 parent or parents; or

1380 2. Unmarried member with 10 years of service or  
 1381 more.--Payments shall be made until the member's death or the  
 1382 120th monthly payment, whichever is later; or

1383 3. Unmarried member with less than 10 years of  
 1384 service.--Payments shall be made until the member's death.

1385  
1386 Any monthly retirement income payments due after the death of a  
1387 disabled member shall be paid to the member's designated  
1388 beneficiary or beneficiaries or the member's estate as provided  
1389 in paragraph (5)(h) or subsection (7), as applicable.

1390 (h) Reexamination of disability retirant.--At least once  
1391 each year during the first 5 years following a member's  
1392 retirement on account of disability, and at least once in each  
1393 3-year period thereafter, the Board shall require any disability  
1394 retirant who has not attained age 50 to undergo a medical  
1395 examination to be made by or under the direction of a physician  
1396 designated by the Board. However, if a disability retirant has  
1397 lost the firefighter certification, as required by Florida  
1398 Statutes, then the reexamination is discretionary. If the  
1399 retirant refuses to submit to the medical examination in any  
1400 such period, his or her disability pension may be suspended by  
1401 the Board until withdrawal of such refusal. If such refusal  
1402 continues for 1 year, all of the retirant's rights in and to a  
1403 disability pension may be revoked by the Board. If, upon medical  
1404 examination of the retirant, the physician reports to the Board  
1405 that the retirant is physically able and capable of performing  
1406 the duties of a firefighter in the rank held by him or her at  
1407 the time of retirement, the member shall be returned to  
1408 employment in the Department at a salary not less than the  
1409 salary of the rank last held by him or her, provided that return  
1410 to the employ of the Department shall be subject to the approval  
1411 of the Fire Chief. Should the retirant become employed by the  
1412 City, his or her disability pension shall terminate.

1413 (i) Return to work of a disability retirant; service  
 1414 credit.--In the event a disability retirant is returned to  
 1415 employment in the department, as provided in paragraph (h), his  
 1416 or her service credit at the time of disability retirement shall  
 1417 be restored to his or her credit. In the event he or she retired  
 1418 under the provisions of paragraph (c), he or she shall be given  
 1419 service credit for the period he or she was in receipt of a  
 1420 disability pension. If he or she retired under the provisions of  
 1421 paragraph (a), he or she shall not be given service credit for  
 1422 the period he or she was in receipt of a disability pension.

1423 (j) Expenses of medical examinations for disability.--The  
 1424 member shall be responsible for the expenses of the physician  
 1425 the member designates for medical examinations required under  
 1426 this subsection. Expenses for any other medical examinations  
 1427 required under this subsection shall be paid by the Fund.

1428 (7) Beneficiary benefits.--

1429 (a) Death while in service; 5 years or more (nonduty).--In  
 1430 the event a member with 5 or more years of service credit dies  
 1431 while in the employ of the Department, and the Board finds his  
 1432 or her death to have occurred as the result of causes arising  
 1433 outside the performance of his or her duties as a firefighter in  
 1434 the employ of the City, the following applicable pensions shall  
 1435 be paid:

1436 1. Surviving spouse's benefits.--The surviving spouse  
 1437 shall receive a pension equal to two-thirds of the pension the  
 1438 member would otherwise have been entitled to receive under  
 1439 paragraph (5) (a), as if the member had retired the day preceding  
 1440 the date of his or her death, notwithstanding that the member

1441 might not have met the age and service requirements for  
1442 retirement as specified in subsection (5). Upon the surviving  
1443 spouse's death, the pension shall terminate.

1444 2. Benefits for children, surviving spouse, etc.--In the  
1445 event the deceased member does not leave a surviving spouse, or  
1446 if the surviving spouse shall die, and the member leaves an  
1447 unmarried child or children under age 18, each such child shall  
1448 receive a pension of an equal share of the pension to which said  
1449 member's surviving spouse was or would have been entitled. Upon  
1450 any such child's adoption, marriage, death, or attainment of age  
1451 18, the child's pension shall terminate and said child's pension  
1452 shall be apportioned to the deceased member's remaining eligible  
1453 children under age 18.

1454 3. Benefits for dependent parents.--In the event a member  
1455 dies and does not leave a surviving spouse or children eligible  
1456 to receive a pension provided for in subparagraphs 1. and 2.,  
1457 and the member leaves a parent or parents whom the Board finds  
1458 to have been dependent upon the member for 50 percent or more of  
1459 their financial support, each such parent shall receive a  
1460 pension of an equal share of the pension to which the member's  
1461 surviving spouse would have been entitled. Upon any such  
1462 parent's remarriage or death, the parent's pension shall  
1463 terminate.

1464 4. Estate.--In the event a member dies and does not leave  
1465 a surviving spouse, children, or parents eligible to receive a  
1466 pension provided for in subparagraph 1., subparagraph 2., or  
1467 subparagraph 3., then the benefits remaining, if any, shall be  
1468 paid to the member's estate.

1469 (b) Death in the line of duty.--In the event a member dies  
1470 while in the employ of the Department, and the Board finds his  
1471 or her death to be the natural and proximate result of causes  
1472 arising out of and in the actual performance of duty as a  
1473 firefighter in the employ of the City, the following applicable  
1474 pensions shall be paid:

1475 1. Surviving spouse's benefits.--The surviving spouse  
1476 shall receive a monthly pension equal to the greater of:

1477 a. Sixty-six and two-thirds of the member's highest 12  
1478 months' salary or top step firefighter pay, whichever is  
1479 greater; or

1480 b. The surviving spouse's share of the member's accrued  
1481 benefit. Upon the surviving spouse's death, the pension shall  
1482 terminate.

1483 2. Benefits for children, surviving spouse, etc.--In the  
1484 event the deceased member does not leave a surviving spouse, or  
1485 if the surviving spouse shall die, and the member leaves an  
1486 unmarried child or children under age 18, each such child shall  
1487 receive a pension of an equal share of the pension to which the  
1488 member's surviving spouse was or would have been entitled. Upon  
1489 any such child's adoption, marriage, death, or attainment of age  
1490 18, the child's pension shall terminate and said child's pension  
1491 shall be apportioned to the deceased member's remaining eligible  
1492 children under age 18.

1493 3. Benefits for dependent parents.--In the event a member  
1494 dies and does not leave a surviving spouse or children eligible  
1495 to receive a pension provided for in subparagraphs 1. and 2.,  
1496 and the member leaves a parent or parents whom the Board finds

1497 | to have been dependent upon the member for 50 percent or more of  
1498 | their financial support, each such parent shall receive a  
1499 | pension of an equal share of the pension to which said member's  
1500 | surviving spouse would have been entitled. Upon any such  
1501 | parent's remarriage or death, the parent's pension shall  
1502 | terminate.

1503 |         4. Estate.--In the event a member dies and does not leave  
1504 | a surviving spouse, children, or parents eligible to receive a  
1505 | pension provided for in subparagraph 1., subparagraph 2., or  
1506 | subparagraph 3., then the benefits remaining, if any, shall be  
1507 | paid to the member's estate.

1508 |         (c) Death after retirement.--Upon the death of a retirant,  
1509 | the following applicable pensions shall be paid:

1510 |             1. Surviving spouse's benefits.--The surviving spouse  
1511 | shall receive a pension equal to three-fourths of the retirant's  
1512 | pension at the time of his or her death. Upon the surviving  
1513 | spouse's death, the pension shall terminate.

1514 |             2. Benefits for children, surviving spouse, etc.--In the  
1515 | event a deceased retirant does not leave a surviving spouse, or  
1516 | if the surviving spouse shall die, and the retirant leaves an  
1517 | unmarried child or children under age 18, each such child shall  
1518 | receive a pension of an equal share of the pension to which the  
1519 | retirant's surviving spouse was or would have been entitled.  
1520 | Upon any such child's adoption, marriage, death, or attainment  
1521 | of age 18, the child's pension shall terminate and said child's  
1522 | pension shall be apportioned to the deceased retirant's  
1523 | remaining eligible children under age 18.

1524           3. Benefits for dependent parents.--In the event a  
 1525   retirant dies and does not leave a surviving spouse or children  
 1526   eligible to receive a pension provided for in subparagraphs 1.  
 1527   and 2., and the retirant leaves a parent or parents whom the  
 1528   Board finds to have been dependent upon the retirant for 50  
 1529   percent or more of their financial support, each such parent  
 1530   shall receive a pension of an equal share of the pension to  
 1531   which the retirant's surviving spouse would have been entitled.  
 1532   Upon any such parent's remarriage or death, the parent's pension  
 1533   shall terminate.

1534           4. Estate.--In the event a retirant dies and does not  
 1535   leave a surviving spouse, children, or parents eligible to  
 1536   receive a pension provided for in subparagraph 1., subparagraph  
 1537   2., or subparagraph 3., then the benefits remaining, if any,  
 1538   shall be paid to the retirant's estate.

1539           (8) Acceptance of pension no bar to subsequent work.--The  
 1540   acceptance of a pension by a member upon retirement shall not  
 1541   bar the member from engaging in any other business thereafter.

1542           (9) Pension not assignable or subject to garnishment.--The  
 1543   pensions or other benefits accrued or accruing to any person  
 1544   under the provision of this act and the accumulated  
 1545   contributions and the cash securities in the Funds created under  
 1546   this act shall not be subject to execution or attachment or to  
 1547   any legal process whatsoever, and shall be unassignable.  
 1548   However, pursuant to a court support order, the Trustees may  
 1549   direct that the retirement benefits be paid for alimony or child  
 1550   support in accordance with rules and regulations adopted by the  
 1551   Board of Trustees.



1552 (10) Transfer of funds.--All funds and assets previously  
 1553 owned and controlled by the West Palm Beach Firemen's Relief and  
 1554 Pension Fund are vested in the Board of this Fund.

1555 (11) Ordinances applicable.--All ordinances of the City  
 1556 applicable to chapter 175, Florida Statutes, are hereby made  
 1557 applicable to this act with equal force and effect. No proposed  
 1558 change or amendment to this act shall be adopted without  
 1559 approval required by section 175.351(2), Florida Statutes.

1560 (12) Existing benefits to continue.--This act, and any  
 1561 amendments thereto, shall not be construed to decrease the  
 1562 benefits payable to, or on account of, any member of the Fund.

1563 (13) Workers' compensation offset.--The pension benefits  
 1564 payable under this act shall not be offset by workers'  
 1565 compensation benefits payable on account of the disability or  
 1566 death of a member except to the extent that the total of the  
 1567 pension benefits and workers' compensation benefits exceed the  
 1568 member's monthly average wage.

1569 (14) Actuarial valuations.--The Fund shall be actuarially  
 1570 evaluated annually.

1571 (15) Review procedures.--

1572 (a) The applicant for benefits under this chapter may,  
 1573 within 20 days after being informed of the denial of his or her  
 1574 request for pension benefits, appeal the denial by filing a  
 1575 reply to the proposed order with the pension's secretary. If no  
 1576 appeal is filed within the time period, then the proposed order  
 1577 shall be final.

1578 (b) The Board of Trustees shall hold a hearing within 45  
 1579 days after the receipt of the appeal. Written notice of the

1580 hearing shall be sent by certified mail return  
1581 receipt/restricted to individual, to the applicant at the  
1582 address listed on the application 10 days prior to the hearing.

1583 (c) The procedures at the hearing shall be as follows:

1584 1. All parties shall have an opportunity to respond, to  
1585 present physical and testimonial evidence and argument on all  
1586 issues involved, to conduct cross-examination, to submit  
1587 rebuttal evidence, and to be represented by counsel. Medical  
1588 reports and depositions may be accepted in lieu of live  
1589 testimony at the Board's discretion.

1590 2. All witnesses shall be sworn.

1591 3. The applicant and the Board shall have an opportunity  
1592 to question all witnesses.

1593 4. Formal rules of evidence and formal rules of civil  
1594 procedure shall not apply. The proceedings shall comply with the  
1595 essential requirements of due process and law.

1596 5. The record in a case governed by this subsection shall  
1597 consist only of:

1598 a. A tape recording of the hearing, to be taped and  
1599 maintained as part of the official files of the Board of  
1600 Trustees by the pension's secretary.

1601 b. Evidence received or considered.

1602 c. All notices, pleadings, motions, and intermediate  
1603 rulings.

1604 d. Any decisions, opinions, proposed or recommended  
1605 orders, or reports by the Board of Trustees.

1606 (d) Within 5 days after the first hearing, the Board shall  
1607 take one of the following actions:

1608           1. Grant the pension benefits by overturning the proposed  
1609 order by a majority vote.

1610           2. Deny the benefits and approve the proposed order as a  
1611 final order after making any changes in the order the Board  
1612 feels is necessary.

1613           (e) Findings of fact by the Board shall be based on  
1614 competent, substantial evidence on the record.

1615           (f) Within 20 calendar days after rendering its order, the  
1616 Board of Trustees shall send to the applicant, by certified mail  
1617 return receipt/restricted to individual, a copy of the order.

1618           (g) The applicant may seek review of the order by the  
1619 Board of Trustees by filing a petition for writ of certiorari  
1620 with the circuit court within 30 days.

1621           (16) Lump sum payment of small retirement  
1622 income.--Notwithstanding any provision of the Fund to the  
1623 contrary, if the single sum value of the accrued retirement  
1624 income is less than \$5,000 as of the date of retirement or  
1625 termination of service, whichever is applicable, the Board of  
1626 Trustees, in the exercise of its discretion, may specify that  
1627 the actuarial equivalent of such retirement income be paid in  
1628 lump sum.

1629           (17) Pickup of employee contributions.--Effective the  
1630 first day of the first full payroll period of the first calendar  
1631 quarter following receipt of a favorable determination letter  
1632 from the Internal Revenue Service, the City shall pick up the  
1633 member contribution required by this section. The contributions  
1634 so picked up shall be treated as employer contributions in  
1635 determining tax treatment under the United States Internal

1636 Revenue Code. The City shall pick up the member contributions  
 1637 from funds established and available for salaries, which funds  
 1638 would otherwise have been designated as member contributions and  
 1639 paid to the Fund. Member contributions picked up by the City  
 1640 pursuant to this subsection shall be treated for all other  
 1641 purposes of making a refund of members' contributions, and for  
 1642 all other purposes of this and other laws, in the same manner  
 1643 and to the same extent as member contributions made prior to the  
 1644 effective date of this subsection. The intent of this subsection  
 1645 is to comply with section 414(H) (2) of the Internal Revenue  
 1646 Code.

1647 (18) Internal Revenue Code limits.--

1648 (a) In no event may a member's annual benefit exceed  
 1649 \$160,000, adjusted for cost of living in accordance with  
 1650 Internal Revenue Code ("IRC") Section 415(d).

1651 (b) If a member has less than 10 years of service with the  
 1652 City, the applicable limitation in paragraph (a) shall be  
 1653 reduced by multiplying such limitation by a fraction, not to  
 1654 exceed 1. The numerator of such fraction shall be the number of  
 1655 years, or part thereof, of service with the City; the  
 1656 denominator shall be 10 years.

1657 (c) For purposes of this subsection, "annual benefit"  
 1658 means a benefit payable annually in the form of a straight life  
 1659 annuity with no ancillary or incidental benefits and with no  
 1660 member or rollover contributions. To the extent that ancillary  
 1661 benefits are provided, the limits set forth in paragraph (a)  
 1662 shall be reduced actuarially, using an interest rate assumption

1663 equal to the greater of 5 percent or the rate being used for  
 1664 actuarial equivalence, to reflect such ancillary benefits.

1665 (d) If distribution of retirement benefits begins before  
 1666 age 62, the dollar limitation as described in paragraph (a)  
 1667 shall be reduced using an interest rate assumption equal to the  
 1668 greater of 5 percent or the interest rate used for actuarial  
 1669 equivalence; however, retirement benefits shall not be reduced  
 1670 below \$75,000 if payment of benefits begins at or after age 55,  
 1671 and not below the actuarial equivalent of \$75,000 if payment of  
 1672 benefits begins before age 55. For a member with 15 or more  
 1673 years of service with the City, the reductions described above  
 1674 shall not reduce such member's benefit below \$50,000, adjusted  
 1675 for cost of living in accordance with IRC Section 415(d), but  
 1676 only for the year in which such adjustment is effective. If  
 1677 retirement benefits begin after age 65, the dollar limitation of  
 1678 paragraph (a) shall be increased actuarially by using an  
 1679 interest assumption equal to the lesser of 5 percent or the rate  
 1680 used for actuarial equivalence.

1681 (e) Compensation in excess of limitations set forth in  
 1682 Section 401(a)(17) of the Internal Revenue Code shall be  
 1683 disregarded. The limitation on compensation for an eligible  
 1684 employee shall not be less than the amount which was allowed to  
 1685 be taken into account hereunder as in effect on July 1, 1993.  
 1686 "Eligible employee" is an individual who was a member before the  
 1687 first plan year beginning after December 31, 1995.

1688 (19) Required distributions.--In accordance with IRC  
 1689 Section 401(9)(C), any and all benefit payments shall begin by  
 1690 the later of:

1691 (a) April 1 of the calendar year following the calendar  
 1692 year of the member's retirement date; or

1693 (b) April 1 of the calendar year following the calendar  
 1694 year in which the employee attains age 70 1/2.

1695 (20) Miscellaneous requirements.--

1696 (a) No benefit of any kind shall be payable from the  
 1697 assets of the Pension Fund unless specifically provided for in  
 1698 this act; however, the Board of Trustees, with the approval of  
 1699 the City, may grant ad hoc benefits after a public hearing and  
 1700 acceptance by the state of an actuarial impact statement  
 1701 submitted pursuant to part VII of chapter 112, Florida Statutes.

1702 (b) The City may not offset any part of its required  
 1703 annual contribution by the Fund's assets except as determined in  
 1704 an actuarial valuation, the report for which is determined to be  
 1705 state accepted pursuant to part VII of chapter 112, Florida  
 1706 Statutes.

1707 (c) All provisions of this act and operations of the  
 1708 Pension Fund shall be carried out in compliance with part VII of  
 1709 chapter 112, Florida Statutes.

1710 (d) False or misleading statements made to obtain  
 1711 retirement benefits prohibited.--

1712 1. It is unlawful for a person to willfully and knowingly  
 1713 make, or cause to be made, or to assist, conspire with, or urge  
 1714 another to make, or cause to be made, any false, fraudulent, or  
 1715 misleading oral or written statement or to withhold or conceal  
 1716 material information to obtain any benefit under this plan.

1717           2.a. A person who violates subparagraph 1. commits a  
1718 misdemeanor of the first degree, punishable as provided in  
1719 section 775.082 or section 775.083, Florida Statutes.

1720           b. In addition to any applicable criminal penalty, upon  
1721 conviction for a violation of subparagraph 1., a participant or  
1722 beneficiary of this plan may, in the discretion of the Board of  
1723 Trustees, be required to forfeit the right to receive any or all  
1724 benefits to which the person would otherwise be entitled under  
1725 this Plan. For the purposes of this sub-subparagraph,  
1726 "conviction" means a determination of guilt that is the result  
1727 of a plea or trial, regardless of whether adjudication is  
1728 withheld.

1729           (21) Rollover distributions.--

1730           (a) This subsection applies to distributions made on or  
1731 after January 1, 1993. Notwithstanding any provision of the Plan  
1732 to the contrary that would otherwise limit a distributee's  
1733 election under this subsection, a distributee may elect, at the  
1734 time and in the manner prescribed by the Board of Trustees, to  
1735 have any portion of an eligible rollover distribution paid  
1736 directly to an eligible retirement plan specified by the  
1737 distributee in a direct rollover.

1738           (b)1. "Eligible rollover distribution" is any distribution  
1739 of all or any portion of the balance to the credit of the  
1740 distributee, except that an eligible rollover does not include  
1741 any distribution that is one of a series of substantially equal  
1742 periodic payments (not less frequently than annually) made for  
1743 the life (or life expectancy) of the distributee or the joint  
1744 lives (or joint life expectancies) of the distributee and the

1745 distributee's designated beneficiary, or for a specified period  
 1746 of 10 years or more; any distribution to the extent such  
 1747 distribution is required under section 401(a)(9) of the Code;  
 1748 and the portion of any distribution that is not includable in  
 1749 gross income.

1750 2. "Eligible retirement plan" is an individual retirement  
 1751 account described in section 408(a) of the Code, an individual  
 1752 retirement annuity described in section 408(b) of the Code, an  
 1753 annuity plan described in section 403(a) of the Code, or a  
 1754 qualified trust described in section 401(a) of the Code that  
 1755 accepts the distributee's eligible rollover distribution.  
 1756 However, in the case of an eligible rollover distribution to the  
 1757 surviving spouse, an "eligible retirement plan" is an individual  
 1758 retirement account or individual retirement annuity.

1759 3. "Distributee" includes an employee or former employee.  
 1760 In addition, the employee's or former employee's surviving  
 1761 spouse and the employee's or former employee's spouse or former  
 1762 spouse who is entitled to payment for alimony and child support  
 1763 under a domestic relations order determined to be qualified by  
 1764 this Fund are distributees with regard to the interest of the  
 1765 spouse or former spouse.

1766 4. "Direct rollover" is a payment by the Plan to the  
 1767 eligible retirement plan specified by the distributee.

1768 (22) Rollovers from qualified plans.--

1769 (a) A member may roll over all or part of his or her  
 1770 assets in another qualified plan to his or her chapter 175,  
 1771 Florida Statutes, share account, provided all of the following  
 1772 requirements are met:



1773 |           1. Some or all of the amount distributed from the other  
 1774 | plan is rolled over to this plan no later than the 60th day  
 1775 | after distribution was made from the plan or, if distributions  
 1776 | are made in installments, no later than the 60th day after the  
 1777 | last distribution was made.

1778 |           2. The amount rolled over to the share account does not  
 1779 | include any amounts contributed by the member to the plan on a  
 1780 | posttax basis.

1781 |           3. The rollover is made in cash.

1782 |           4. The member certifies that the distribution is eligible  
 1783 | for a rollover.

1784 |           5. Amounts which the Trustee accepts as a rollover to this  
 1785 | Fund shall, along with any earnings allocated to the Trustee, be  
 1786 | fully vested at all times.

1787 |  
 1788 | The rollover may also be made to this plan from an individual  
 1789 | retirement account qualified under Code Section 408 when the  
 1790 | individual retirement was merely used as a conduit for funds  
 1791 | from another qualified plan and the rollover is made in  
 1792 | accordance with the rules provided in subparagraphs 1.-5.  
 1793 | Amounts rolled over may be segregated from other Fund assets.  
 1794 | The Trustee shall separately account for gains, losses, and  
 1795 | administrative expenses on these rollovers as provided for in  
 1796 | paragraphs (5)(d) and (j). In addition, the Fund may accept the  
 1797 | direct transfer of a member's benefits from another qualified  
 1798 | retirement plan or Internal Revenue Code section 457 plan. The  
 1799 | Fund shall account for direct transfers in the same manner as a  
 1800 | rollover and shall obtain certification from the member that the

1801 amounts are eligible for a rollover or direct transfer to this  
1802 Fund.

1803 (b) Transfer of accumulated leave.--

1804 1. Members eligible to receive accumulated sick leave,  
1805 accumulated vacation leave, or any other accumulated leave  
1806 payable upon separation shall have the leave transferred to the  
1807 Fund up to the amount permitted by law. Any additional amounts  
1808 shall be paid directly to the member. Members on whose behalf  
1809 leave has been transferred shall maintain the entire amount of  
1810 the transferred leave balance in the DROP or Share Account.

1811 2. If a member on whose behalf the City makes a  
1812 transferred leave balance to the Plan dies after retirement or  
1813 other separation, then any person who would have received a  
1814 death benefit had the member died in service immediately prior  
1815 to the date of retirement or other separation shall be entitled  
1816 to receive an amount equal to the transferred leave balance in a  
1817 lump sum. In the case of a surviving spouse or former spouse, an  
1818 election may be made to transfer the leave balance to an  
1819 eligible retirement plan in lieu of the lump sum payment.  
1820 Failure to make such an election by the surviving spouse or  
1821 former spouse within 60 days after the member's death shall be  
1822 deemed an election to receive the lump sum payment.

1823 3. The Board, by rule, shall prescribe the method for  
1824 implementing the provisions of this paragraph.

1825 4. Amounts transferred under this section shall remain  
1826 invested in the Pension Fund for a period of not less than 1  
1827 year.

1828 (23) Actuarial assumptions.--The following actuarial  
 1829 assumptions shall be used for all purposes in connection with  
 1830 this Fund, effective October 1, 1998:

1831 (a) The period for amortizing current, future, and past  
 1832 actuarial gains or losses shall be 20 years.

1833 (b) The assumed investment rate of return shall be 8.25  
 1834 percent.

1835 (24) Prior firefighter service.--Unless otherwise  
 1836 prohibited by law, the years, or fractional parts of years, that  
 1837 a member previously served as a firefighter with the City during  
 1838 a period of employment and for which accumulated contributions  
 1839 were withdrawn from the fund, or the years, and fractional parts  
 1840 of years, that a member served as a firefighter for this or any  
 1841 other municipal, county, or state fire department or district or  
 1842 any time served in the military service of the Armed Forces of  
 1843 the United States shall be added to the years of credited  
 1844 service, provided that the member contributes to the fund the  
 1845 sum that would have been contributed, based on the member's  
 1846 salary and the employee contribution rate in effect at the time  
 1847 that the credited service is requested, had the member been a  
 1848 member of this system for the years, or fractional parts of  
 1849 years, for which the credit is requested, plus the amount  
 1850 actuarially determined, such that the crediting of service does  
 1851 not result in any cost to the fund, plus payment of costs for  
 1852 all professional services rendered to the board in connection  
 1853 with the purchase of years of credited service.

1854 (a) Payment by the member of the required amount may be  
 1855 made within 6 months after the request for credit and in one

1856 lump sum payment, or the member may buy back this time over a  
1857 period equal to the length of time being purchased or 5 years,  
1858 whichever is greater, at an interest rate which is equal to the  
1859 Fund's actuarial assumption. A member may request to purchase  
1860 some or all years of service.

1861 (b) The credit purchased under this section shall count  
1862 for all purposes, except vesting.

1863 (c) In no event, however, may credited service be  
1864 purchased pursuant to this section for prior service with any  
1865 other municipal, county, or state fire department or district,  
1866 if such prior service forms or will form the basis of a  
1867 retirement benefit or pension from another retirement system or  
1868 plan.

1869 (d) In the event that a member who is in the process of  
1870 purchasing service suffers a disability and is awarded a benefit  
1871 from the plan, the member shall not be required to complete the  
1872 buyback. However, contributions made prior to the date the  
1873 disability payment begins will be retained by the Fund.

1874 (e) If a member who has either completed the purchase of  
1875 service or is in the process of purchasing service terminates  
1876 before vesting, the member's contributions shall be refunded,  
1877 including the buyback contributions.

1878 (f) A request to purchase service may be made at any time  
1879 during the course of employment; however, the buyback is a one-  
1880 time opportunity.

1881 Section 2. This act shall take effect upon becoming a law.