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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:

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- 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

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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

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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

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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

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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.

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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

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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

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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.

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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

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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,

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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.

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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

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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.

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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

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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:

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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).

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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

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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

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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

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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-

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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:

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- 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.

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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

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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

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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

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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

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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

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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.--

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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.

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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

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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:

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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

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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

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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.

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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.

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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).

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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.--

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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.

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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

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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

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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.

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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

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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.

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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).

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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

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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.

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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

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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;

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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.

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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.

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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

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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.

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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

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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.

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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.

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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

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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:

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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

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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

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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:

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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.

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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

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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:

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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

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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.

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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

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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.