

HB 1393

2007

1                                   A bill to be entitled  
2       An act relating to the City of West Palm Beach, Palm Beach  
3       County; amending chapter 24981, Laws of Florida, 1947, as  
4       amended; revising provisions relating to the West Palm  
5       Beach Firefighters Pension Fund; revising definition of  
6       the term "salary"; removing provisions for lump-sum  
7       payments of small retirement income; revising provisions  
8       relating to the purchase of permissive service; providing  
9       an effective date.

10

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

12

13           Section 1. Subsections (17) through (24) of section 17 of  
14   chapter 24981, Laws of Florida, 1947, as amended by chapter  
15   2005-303, Laws of Florida, are renumbered as subsections (16)  
16   through (23), respectively, and paragraph (a) of subsection (1),  
17   paragraphs (a), (k), and (l) of subsection (5), and present  
18   subsections (16) and (24) of that section are amended, to read:

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

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

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

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

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

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

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

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

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

46 7. "Final average salary" means the average of the monthly  
47 salary paid a member in the 2 best years of employment, paid in  
48 and prior to the 23rd year of credited service. No active  
49 nonDROP member shall have any salary amounts paid prior to  
50 October 1, 2000, used in the calculation of final average  
51 salary. Those members whose final average salary would include  
52 salary amounts paid prior to October 1, 2000, shall use salary  
53 paid during the period from October 1, 2000, through September  
54 30, 2001, to replace any salary amounts paid prior to October 1,

55 | 2000. The replacement salary from October 1, 2000, through  
 56 | September 30, 2001, may range anywhere between 2 weeks and 104  
 57 | weeks, but shall only be enough salary as is sufficient to  
 58 | replace the salary paid prior to October 1, 2000. The  
 59 | replacement salary amounts from October 1, 2000, to September  
 60 | 30, 2001, shall be prorated based upon an annual salary.

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

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

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

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

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

79 | 13. "Qualified public depository" means any bank or  
 80 | savings association organized and existing under the laws of  
 81 | Florida and any bank or savings association organized under the  
 82 | laws of the United States that has its principal place of

83 business in Florida, or has a branch office which is authorized  
 84 under the laws of Florida or the United States to receive  
 85 deposits in Florida, that meets all of the requirements of  
 86 chapter 280, Florida Statutes, and that has been designated by  
 87 the Treasurer of the State of Florida as a qualified public  
 88 depository.

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

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

93 16. "Salary" means:

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

99 ~~a.b.~~ On and after October 1, 2001, "salary," for the  
 100 purpose of pension contributions and benefit calculations, shall  
 101 mean ~~be defined as~~ payments made to a firefighter by the City  
 102 for: regular hours worked; step-up pay; longevity pay; all  
 103 authorized leave time, which includes compensatory time used,  
 104 earned personal leave used, emergency leave used, sick leave  
 105 used, sick leave pay bank used, vacation time used, holiday time  
 106 used, emergency leave, bereavement leave, and administrative  
 107 leave; certification pay, which includes paramedic, hazardous  
 108 material technician, special operations, dive rescue, fire  
 109 service instructor, fire inspector, and SWAT certification pay;  
 110 fire inspector standby pay; educational bonus incentive; pay

111 received from the City during military training; and sick leave  
 112 conversion when such leave is converted during the course of  
 113 active employment. The definition of "salary" specifically  
 114 excludes any lump sum payments for accumulated leave such as  
 115 that received upon final payoff. Employees who are specifically  
 116 excluded from bargaining unit recognition as set forth in  
 117 Article 2, but who are members of the West Palm Beach  
 118 Firefighters Pension Fund, shall continue to make contributions  
 119 on management incentive benefits. This definition of  
 120 compensation shall not include any duty employment that is  
 121 performed for other than the City of West Palm Beach per Article  
 122 31, Salary Plan.

123 b. On and after January 1, 2007, "salary," for the purpose  
 124 of pension contributions and benefit calculations, shall mean  
 125 total cash remuneration paid by the City to a firefighter for  
 126 services rendered, excluding payments for overtime and any lump-  
 127 sum payments for accumulated leave such as accrued vacation  
 128 leave, accrued sick leave, and accrued personal leave. Employees  
 129 who are specifically excluded from bargaining unit recognition  
 130 as set forth in Article 2, but who are members of the West Palm  
 131 Beach Firefighters Pension Fund, shall continue to make  
 132 contributions on management incentive benefits. This definition  
 133 of compensation shall not include any duty employment that is  
 134 performed for other than the City of West Palm Beach per Article  
 135 31, Salary Plan.

136 17. "Service," "credited service," or "service credit"  
 137 means the total number of years, and fractional parts of years,  
 138 of employment of any member in the employ of the Department,

139 | omitting intervening years and fractional parts of years of  
 140 | service when the member was not employed by the City. However,  
 141 | no member shall receive credit for years, or fractional parts of  
 142 | years, of service for which the member has withdrawn his or her  
 143 | contributions to the Fund, unless the member repays into the  
 144 | Fund the contributions withdrawn, with interest, within 60  
 145 | months after reemployment. Further, a member may voluntarily  
 146 | leave his or her contributions in the Fund for a period of 5  
 147 | years after leaving the employ of the Department, pending the  
 148 | possibility of his or her being rehired by the Department and  
 149 | remaining employed for a period of not less than 3 years,  
 150 | without losing credit for the time he or she has participated  
 151 | actively as a firefighter. If he or she does not remain employed  
 152 | for a period of at least 3 years as a firefighter with the  
 153 | Department upon reemployment, within 5 years his or her  
 154 | contributions shall be returned without interest in accordance  
 155 | with paragraph (5)(i). In determining the aggregate number of  
 156 | years of service of any member, the time spent in the military  
 157 | service of the United States or United States Merchant Marine by  
 158 | the member on leave of absence from the Department for such  
 159 | reason shall be added to the years of service, provided such  
 160 | time shall not exceed 5 years. Further, to receive credit for  
 161 | such service the member must return to employment as a  
 162 | firefighter of the City within 1 year after the date of release  
 163 | from such active service.

164 |       (5) Service pension.--

165 |       (a) Normal retirement.--

166 |       1. Any member who is actively employed on and after

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167 October 1, 2003, excluding members in the DROP, who has attained  
168 age 50 years and who has acquired 15 or more years of service  
169 credit; who has attained age 55 years and who has acquired 10 or  
170 more years of service credit; or who has acquired 26 years of  
171 service credit without regard to age shall, upon application  
172 filed with the Board, be retired and shall be entitled to a  
173 monthly pension for the remainder of his or her life equal to  
174 the greater of the following:

175 a. Four percent of final average salary times credited  
176 service subject to a maximum of 92 percent of final average  
177 salary. However, in all cases, members shall be entitled to at  
178 least 2 percent per year of credited service; or

179 b. The sum of the following:

180 (I) Two and one-half percent of final average salary  
181 multiplied by the number of years, and fraction of a year, of  
182 service credit to a maximum of 26 years of service, and 2  
183 percent of his or her final average salary multiplied by the  
184 number of years, and fraction of a year, in excess of 26 years  
185 of service, for all years of service earned through September  
186 30, 1988; and

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

190 2. Any member who is actively employed by the Department  
191 on and after October 1, 2003, and who is a member of the DROP on  
192 or after that date, may elect one of the following transition  
193 benefits by making a written election within 45 days after the  
194 effective date of this special act on a form provided by the

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195 Board of Trustees. The right to elect the transition benefits  
196 contained in sub-subparagraph b. shall terminate if no written  
197 election is made within 45 days after the effective date of this  
198 act. In the event a member does not submit a timely written  
199 election, the member shall be deemed to have elected the  
200 transition benefits contained in sub-subparagraph a. below:

201 a. Retain member's original monthly retirement benefit,  
202 DROP account balance, and share account balance. DROP members  
203 who select this transition benefit may continue to participate  
204 in the DROP until the end of the original DROP term. Additional  
205 allocations to the share account shall be made in accordance  
206 with the provisions of paragraph (j).

207 b. Convert the member's original monthly benefit and DROP  
208 balance to a new monthly benefit and BackDROP. In order to be  
209 entitled to this benefit, the member must cease membership in  
210 the DROP program. The new converted benefits will not be paid  
211 until the member has terminated employment. The conversion of  
212 the member's benefits shall be based on the following:

213 (I) Original monthly benefit conversion: A DROP member is  
214 entitled to a conversion of the original monthly benefit in an  
215 amount equal to 4 percent for each year of credited service  
216 excluding the BackDROP period with a 2-year final average  
217 salary. The 2-year final average salary shall be determined  
218 based on a 24-month period with the highest average prior to the  
219 number of full years of BackDROP (selected by the member in  
220 accordance with sub-sub-subparagraph II). No final average  
221 salary shall be included in a monthly benefit calculation for  
222 which a member has received a BackDROP payment.



223 (II) BackDROP conversion: The DROP member is entitled to a  
 224 lump sum payment equal to the new monthly benefit annualized  
 225 times a period of whole years as selected by the member up to a  
 226 maximum of 5. The BackDROP benefit will be paid interest at the  
 227 rate of 8.25 percent less expenses, compounded annually.

228  
 229 The 4-percent benefit accrual factor in sub-subparagraph 1.a. is  
 230 contingent on and subject to the adoption and maintenance of the  
 231 assumptions set forth in subsection (22) ~~(23)~~. If such  
 232 assumptions are modified by legislative, judicial, or  
 233 administrative agency action, and the modification results in  
 234 increased City contributions to the Pension Fund, the 4-percent  
 235 accrual factor in sub-subparagraph 1.a. shall be automatically  
 236 decreased prospectively, from the date of the action, to  
 237 completely offset the increase in City contributions. However,  
 238 in no event shall the benefit accrual factor in sub-subparagraph  
 239 1.a. be adjusted below 3.5 percent. To the extent that the  
 240 benefit accrual factor is less than 4 percent, the supplemental  
 241 pension distribution calculation under paragraph (d) shall be  
 242 adjusted for employees who retire on or after October 1, 1998,  
 243 and those employees who were members of the DROP on October 1,  
 244 1998. The adjustment shall be to decrease the minimum return of  
 245 8.25 percent needed to afford the supplemental pension  
 246 distribution, when the amount of the reduction is zero if an  
 247 employee has been credited with 16 or more years with the 3-  
 248 percent benefit accrual factor or 1.25 percent if an employee  
 249 has been credited with no more than a 2.5-percent benefit  
 250 accrual factor. If an employee has been credited with less than

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251 16 years at the 3-percent benefit accrual factor, then the  
252 accumulated amount over 2.5 percent for each year of service  
253 divided by .5 percent divided by 16 subtracted from 1 multiplied  
254 by 1.25 percent is the reduction from 8.25 percent. An example  
255 of the calculation of the minimum return for supplemental  
256 pension distribution as described above is set forth in Appendix  
257 B to the collective bargaining agreement between the City of  
258 West Palm Beach and the West Palm Beach Association of  
259 Firefighters, Local 727-IAFF, October 1, 2003-September 30,  
260 2006.

261 (k) Deferred Retirement Option Plan (DROP).--Effective  
262 upon the ratification of the collective bargaining agreement  
263 between the City of West Palm Beach and the West Palm Beach  
264 Association of Firefighters, Local 727-IAFF, October 1, 2003-  
265 September 30, 2006, no new members may enter into the DROP.  
266 Existing DROP members on the ratification date shall have the  
267 option to remain in the DROP for the remainder of their  
268 individual 5-year terms in accordance with the provisions of  
269 subparagraph (5)(a)2.

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

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

275 b. Election to participate shall be forfeited if not  
276 exercised within the first 35 years of combined credited  
277 service.

278 c. A member shall not participate in the DROP beyond the

279 | time of attaining 37 years of service and the total years of  
 280 | participation in the DROP shall not exceed 5 years. For example:

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

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

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

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

289 |       d. Upon a member's election to participate in the DROP, he  
 290 | or she shall cease to be a member and shall no longer accrue any  
 291 | benefits under the Pension Fund, except for the benefits  
 292 | provided under paragraph (j) of this subsection, chapter 175,  
 293 | Florida Statutes, share accounts. For all Fund purposes, the  
 294 | member becomes a retirant, except that a DROP participant shall  
 295 | continue to receive shares of the chapter 175, Florida Statutes,  
 296 | money in accordance with paragraph (j), chapter 175, Florida  
 297 | Statutes, share accounts. The amount of credited service and  
 298 | final average salary shall freeze as of the date of entry into  
 299 | the DROP.

300 |       2. Amounts payable upon election to participate in the  
 301 | DROP.--

302 |       a. Monthly retirement benefits that would have been  
 303 | payable had the member terminated employment with the Department  
 304 | and elected to receive monthly pension payments shall be paid  
 305 | into the DROP and credited to the retirant. Payments into the  
 306 | DROP shall be made monthly over the period the retirant

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307 participates in the DROP, up to a maximum of 60 months.

308       b. Effective October 1, 2002, participants have the option  
309 to select one of three methods to credit investment earnings to  
310 their account. Investment earnings shall be credited on a  
311 quarterly basis. The method may be changed each year effective  
312 October 1; however, the method must be elected prior to October  
313 1. The methods are:

314       (I) Earnings using the rate of investment return earned on  
315 Pension Fund assets as reported by the Fund's investment  
316 monitor. DROP assets are commingled with the Pension Fund assets  
317 for investment purposes;

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

319       (III) A percentage of the DROP account assets to be  
320 credited with earnings or losses in accordance with sub-sub-  
321 subparagraph (I) and a corresponding percentage of the DROP  
322 account assets credited in accordance with sub-sub-subparagraph  
323 (II). The combined total percentage invested under this sub-sub-  
324 subparagraph must equal 100 percent.

325

326 However, if a member does not terminate employment at the end of  
327 participation in the DROP, interest credit shall cease on the  
328 balance.

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

331       d. Upon termination of employment, participants in the  
332 DROP shall receive the balance of the DROP account in accordance  
333 with the following rules:

334       (I) Members may elect to begin to receive payment upon

335 termination of employment or defer payment of the DROP until the  
 336 latest day under sub-sub-subparagraph (III).

337 (II) Payments shall be made in either:

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

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

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

348 (III) Any form of payment selected by a member must comply  
 349 with the minimum distribution requirements of the IRC 401(A)(9),  
 350 and are subject to the requirements of subsection (18) ~~(19)~~.

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

354 e. Costs, fees, and expenses of administration shall be  
 355 debited from the individual member accounts on a proportionate  
 356 basis, taking the cost, fees, and expenses of administration of  
 357 the Fund as a whole, multiplied by a fraction, the numerator of  
 358 which is the total assets in all individual member accounts and  
 359 the denominator of which is the total assets of the Fund as a  
 360 whole.

361 3. Loans from the DROP.--

362 a. Availability of loans.--

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

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

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

368 b. Amount of loan.--

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

371 (II) The maximum dollar amount of a loan is \$50,000,  
 372 reduced by the highest outstanding loan balance during the last  
 373 12 months.

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

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

377 d. Term of loan.--

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

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

380 e. Loan interest rate.--

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

383 (II) The interest rate shall be equal to the lowest prime  
 384 rate published by the Wall Street Journal on the last day of  
 385 each calendar quarter preceding the date of the loan  
 386 application.

387 f. Defaults of loans.--

388 (I) A loan shall be in default if 2 consecutive months of  
 389 repayments are missed or if a total of 4 months of repayments is  
 390 missed.

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

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

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

398 g. Miscellaneous provisions.--

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

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

405 (III) Loans shall be considered general assets of the  
 406 Fund.

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

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

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

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

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

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

416 c. Distributions to members or their beneficiaries of  
 417 after-tax contributions may be withdrawn at any time on or after  
 418 termination of employment. However, payments must be made at

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419 least as promptly as required under subsection (18) ~~(19)~~.

420 d. Loans shall not be made against after-tax  
421 contributions.

422 (1) Backwards Deferred Retirement Option Plan  
423 (BackDROP).--

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

425 a. Any member who has attained age 53 with 18 or more  
426 years of service, who has attained age 58 with 13 or more years  
427 of service, or who has acquired 26 years of service regardless  
428 of age may participate in the BackDROP. Members shall elect to  
429 participate by applying to the Board of Trustees on a form  
430 provided for that purpose. A member may not participate in both  
431 the DROP and the BackDROP.

432 b. Election to participate shall be forfeited if not  
433 exercised within the first 28 years of credited service.  
434 However, a member who is actively employed by the Department on  
435 October 1, 2003, may elect to participate in the BackDROP beyond  
436 the 28th year as follows: the member may elect to participate in  
437 the benefit for 3 full years in the 29th year of employment, for  
438 1 full year in the 30th year of employment, and after the 30th  
439 year of employment all elections to participate in the BackDROP  
440 end.

441 c. A member shall not be eligible to receive a BackDROP  
442 benefit that is greater than an accumulation of 60 months of the  
443 monthly retirement benefit. A member shall not be eligible to  
444 receive a benefit which is less than an accumulation of 36  
445 months of the monthly retirement benefit, except for the  
446 reduction of benefits as defined in sub-subparagraph b.



447 d. Member contributions shall continue throughout the  
448 period of employment and are not refundable for the BackDROP  
449 period.

450 e. Members who elect to participate in the BackDROP must  
451 retire and terminate employment to be eligible for payment of  
452 the benefit.

453 f. Any member who terminates employment by any means,  
454 including death, prior to attaining age 53 with 18 or more years  
455 of service or age 58 with 13 or more years of service or by  
456 acquiring 26 years of service is not eligible to participate in  
457 the BackDROP.

458 2. Benefits payable upon election to participate in the  
459 BackDROP.--

460 a. Upon election to receive the BackDROP benefit, a  
461 member's retirement benefits will be calculated as if the member  
462 had chosen to retire and terminate employment at a date which is  
463 more than 36 months but less than 60 months earlier. The number  
464 of months to be applied is based upon the member's election. The  
465 monthly pension amount shall be multiplied by the number of  
466 months of BackDROP selected by the member, which shall be  
467 between 36 and 60 months, inclusive. The BackDROP benefit shall  
468 be calculated as a single sum, including interest at the rate of  
469 8.25 percent less expenses, compounded annually for the period  
470 of BackDROP.

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

473 c. Upon termination of employment, participants in the  
474 BackDROP shall receive the balance of the BackDROP account in

475 accordance with the following rules:

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

479 (II) Payments shall be made in either:

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

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

485 (C) Annuity.--The account balance shall be paid out in  
 486 monthly installments over the lifetime of the member or until  
 487 the entire balance is exhausted. The monthly amount paid shall  
 488 be determined by the Fund's actuary in accordance with  
 489 selections made by the member in a form provided by the Board of  
 490 Trustees.

491 (III) Any form of payment selected by a member must comply  
 492 with the minimum distribution requirements of the IRC 401(A)(9),  
 493 and are subject to the requirements of subsection (18) ~~(19)~~.

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

496 3. BackDROP earnings.--

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

502 (I) The BackDROP is credited with earnings and losses

503 using the rate of investment return earned on Pension Fund  
 504 assets as reported by the Fund's investment monitor. BackDROP  
 505 assets are commingled with the Pension Fund assets for  
 506 investment purposes;

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

508 (III) A percentage of the BackDROP account assets to be  
 509 credited with earnings or losses in accordance with sub-sub-  
 510 subparagraph (I) and a corresponding percentage of the BackDROP  
 511 account assets credited in accordance with sub-sub-subparagraph  
 512 (II). The combined total percentage invested under this sub-sub-  
 513 subparagraph must equal 100 percent.

514 b. Costs, fees, and expenses of administration shall be  
 515 debited from the individual member BackDROP accounts on a  
 516 proportionate basis, taking the cost, fees, and expenses of  
 517 administration of the Fund as a whole, multiplied by a fraction,  
 518 the numerator of which is the total of assets in all individual  
 519 member accounts and the denominator of which is the total of  
 520 assets of the Fund as a whole.

521 4. Loans from the BackDROP.--

522 a. Availability of loans.--

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

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

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

528 b. Amount of loan.--

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

531 (II) The maximum dollar amount of a loan is \$50,000,  
 532 reduced by the highest outstanding loan balance during the last  
 533 12 months.

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

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

537 d. Term of loan.--

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

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

540 e. Loan interest rate.--

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

543 (II) The interest rate shall be equal to the lowest prime  
 544 rate published by the Wall Street Journal on the last day of  
 545 each calendar quarter preceding the date of the loan  
 546 application.

547 f. Defaults of loans.--

548 (I) A loan shall be in default if 2 consecutive months of  
 549 repayments are missed or if a total of 4 months of repayments is  
 550 missed.

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

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

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

558 g. Miscellaneous provisions.--

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

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

565 (III) Loans shall be considered general assets of the  
 566 Fund.

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

569 5. After-tax contributions to the BackDROP.--

570 a. A member may make after-tax contributions to the  
 571 BackDROP. The maximum amount that may be contributed is the  
 572 lesser of:

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

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

575 b. After-tax contributions to the BackDROP shall earn  
 576 interest in the same manner as set forth in sub-subparagraph  
 577 3.a.

578 c. Distributions to members or their beneficiaries of  
 579 after-tax contributions may be withdrawn at any time on or after  
 580 termination of employment. However, payments must be made at  
 581 least as promptly as required under subsection (18) ~~(19)~~.

582 d. Loans shall not be made against after-tax  
 583 contributions.

584 ~~(16) Lump sum payment of small retirement~~  
 585 ~~income. Notwithstanding any provision of the Fund to the~~  
 586 ~~contrary, if the single sum value of the accrued retirement~~

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587 ~~income is less than \$5,000 as of the date of retirement or~~  
588 ~~termination of service, whichever is applicable, the Board of~~  
589 ~~Trustees, in the exercise of its discretion, may specify that~~  
590 ~~the actuarial equivalent of such retirement income be paid in~~  
591 ~~lump sum.~~

592 (23)~~(24)~~ Prior firefighter service.--Unless otherwise  
593 prohibited by law, the years, or fractional parts of years, that  
594 a member previously served as a firefighter ~~with the City during~~  
595 ~~a period of employment and for which accumulated contributions~~  
596 ~~were withdrawn from the fund, or the years, and fractional parts~~  
597 ~~of years, that a member served as a firefighter for this or any~~  
598 other municipal, county, or state fire department or district or  
599 any time served in the military service of the Armed Forces of  
600 the United States shall be added to the years of credited  
601 service, provided that the member contributes to the fund the  
602 sum that would have been contributed, based on the member's  
603 salary and the employee contribution rate in effect at the time  
604 that the credited service is requested, had the member been a  
605 member of this system for the years, or fractional parts of  
606 years, for which the credit is requested, plus the amount  
607 actuarially determined, such that the crediting of service does  
608 not result in any cost to the fund, plus payment of costs for  
609 all professional services rendered to the board in connection  
610 with the purchase of years of credited service.

611 (a) Payment by the member of the required amount may be  
612 made within 6 months after the request for credit and in one  
613 lump sum payment, or the member may buy back this time over a  
614 period equal to the length of time being purchased or 5 years,

615 | whichever is greater, at an interest rate which is equal to the  
 616 | Fund's actuarial assumption. A member may request to purchase  
 617 | some or all years of eligible service.

618 | (b) The credit purchased under this section shall count  
 619 | for all purposes, except vesting.

620 | (c) In no event, however, may credited service be  
 621 | purchased pursuant to this section for prior service with any  
 622 | other municipal, county, or state fire department or district,  
 623 | if such prior service forms or will form the basis of a  
 624 | retirement benefit or pension from another retirement system or  
 625 | plan.

626 | (d) In the event that a member who is in the process of  
 627 | purchasing service suffers a disability and is awarded a benefit  
 628 | from the plan, the member shall not be required to complete the  
 629 | buyback. However, contributions made prior to the date the  
 630 | disability payment begins will be retained by the Fund.

631 | (e) If a member who has either completed the purchase of  
 632 | service or is in the process of purchasing service terminates  
 633 | before vesting, the member's contributions shall be refunded,  
 634 | including the buyback contributions.

635 | (f) A request to purchase service may be made at any time  
 636 | during the course of employment; ~~however, the buyback is a one-~~  
 637 | ~~time opportunity.~~ A member may elect to purchase permissive  
 638 | service more than one time; however, the maximum years of  
 639 | service that may be purchased is 5 years.

640 | (g) There shall be no fiscal impact to the City, now or in  
 641 | the future, as a result of the purchase of credit for prior  
 642 | firefighter service or military service.

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