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HB 1393

2007 Legislature

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.

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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,

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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

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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

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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,

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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.

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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

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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

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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.--

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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.

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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.

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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

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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

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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.

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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.--

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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,

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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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643

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