

ENROLLED  
HB 1033

2008 Legislature

1                                   A bill to be entitled  
2           An act relating to the Police Pension Fund of the City of  
3           West Palm Beach, Palm Beach County; amending chapter 24981  
4           (1947), Laws of Florida, as amended; revising the  
5           definition of "retirement"; providing applicability of  
6           certain investment policy guidelines; providing statutory  
7           limitations on investments in foreign investments;  
8           providing additional standards for the performance of  
9           duties by the Board of Trustees relating to investments;  
10          deleting provisions relating to investments and purchases  
11          of securities, uninvested cash, and minimum investment  
12          standards; providing for transfer to the fund of certain  
13          members' leave payments remaining after required  
14          contributions to health savings accounts; providing for  
15          reemployment after retirement by a public or private  
16          employer, reemployment after retirement inside or outside  
17          the police department, reemployment of terminated vested  
18          persons, and reemployment of DROP participants; providing  
19          an effective date.

20  
21   Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1. Paragraph (o) of subsection (2) and subsections  
24           (21) and (31) of section 16 of chapter 24981 (1947), Laws of  
25           Florida, as amended by chapters 2002-359 and 2005-312, Laws of  
26           Florida, are amended, and subsection (36) is added to that  
27           section, to read:

28           Section 16. West Palm Beach Police Pension Fund.--

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

32 (o) "Retirement" means a member's withdrawal from Police  
 33 Department City employment as a police officer with a pension  
 34 payable from the Fund.

35 (21) Investments.--

36 (a) The Board shall have the power and authority to invest  
 37 and reinvest the moneys of the Fund and to hold, purchase, sell,  
 38 assign, transfer, and dispose of any securities and investments  
 39 held in the Fund, including the power and authority to employ  
 40 counseling or investment management services. The aim of the  
 41 investment policies shall be to preserve the integrity and  
 42 security of Fund principal, to maintain a balanced investment  
 43 portfolio, to maintain and enhance the value of the Fund  
 44 principal, and to secure the maximum total return on investments  
 45 that is consonant with safety of principal, provided that such  
 46 investments and reinvestments shall be limited only by the  
 47 investments permitted by the investment policy guidelines  
 48 adopted by the Board in accordance with Florida law.

49 Notwithstanding the foregoing, investments in foreign  
 50 investments are limited in accordance with section  
 51 185.06(1)(b)4., Florida Statutes. The Board members must  
 52 discharge these duties with respect to the Plan solely in the  
 53 interest of the participants and beneficiaries and:

54 1. For the exclusive purpose of providing benefits to  
 55 participants and their beneficiaries and defraying reasonable  
 56 expenses of administering the Plan;

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57           2. With the care, skill, prudence, and diligence under the  
 58 circumstances then prevailing that a prudent person acting in a  
 59 like capacity and familiar with such matters would use in the  
 60 conduct of an enterprise of a like character and with like aims;  
 61 and

62           3. By diversifying the investments of the Plan so as to  
 63 minimize the risk of large losses, unless under the  
 64 circumstances it is clearly prudent not to do so. ~~to the~~  
 65 following:

66           ~~1. Direct obligations of the United States Government or~~  
 67 ~~any agency thereof and any other evidences of indebtedness which~~  
 68 ~~are fully guaranteed by the United States Government or any~~  
 69 ~~agency thereof for the payments of principal and interest.~~

70           ~~2. Direct obligations of the State of Florida.~~

71           ~~3. Debt securities, preferred and common stocks and mutual~~  
 72 ~~fund shares subject to limitations set forth in this section.~~

73           ~~4. Savings and loans associations, to the extent that~~  
 74 ~~deposits are guaranteed by the United States Government or any~~  
 75 ~~agency thereof.~~

76  
 77 ~~Purchases of securities may include bonds or other evidence of~~  
 78 ~~indebtedness, preferred stocks, and common stocks. Operations~~  
 79 ~~shall be conducted on the basis of a balanced portfolio, the~~  
 80 ~~total thereof invested in preferred stocks shall not aggregate~~  
 81 ~~more than 5 percent, and the total amount thereof invested in~~  
 82 ~~common stocks and mutual funds shall not aggregate more than 70~~  
 83 ~~percent of the Fund. Percentages shall be based on market value~~  
 84 ~~at the end of each reporting period (September 30). Investment~~

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85 ~~experience producing a market value percent exceeding the stated~~  
 86 ~~limit does not arbitrarily mean assets are to be liquidated to~~  
 87 ~~satisfy the limit.~~

88 ~~(b) Maximum uninvested cash; minimum investment~~  
 89 ~~standards. No more than 10 percent of the assets of the Fund~~  
 90 ~~shall be held in cash or in noninterest bearing deposits. The~~  
 91 ~~following minimum investment standards shall govern the~~  
 92 ~~eligibility for the purchase of securities.~~

93 ~~1. All corporate and association securities and mutual~~  
 94 ~~funds shall be issued by a corporation or other legal person~~  
 95 ~~incorporated or otherwise organized within the United States and~~  
 96 ~~domiciled therein except as otherwise permitted by section~~  
 97 ~~185.06, Florida Statutes.~~

98 ~~2. Not more than 10 percent of the total fund principal at~~  
 99 ~~market value may be invested in any issuing company, other than~~  
 100 ~~United States Government or United States Government agency~~  
 101 ~~obligations.~~

102 ~~3. All bonds, stocks, or other evidence of indebtedness~~  
 103 ~~shall be issued or guaranteed by a corporation organized under~~  
 104 ~~the laws of the United States, any state or organized territory~~  
 105 ~~of the United States, or the District of Columbia, provided that~~  
 106 ~~the corporation is listed on any one or more of the recognized~~  
 107 ~~national stock exchanges and, with regard to bonds only, holds a~~  
 108 ~~rating in one of the four highest classifications by a major~~  
 109 ~~rating service. Said bonds and preferred stocks that are~~  
 110 ~~convertible into common stocks shall be considered common~~  
 111 ~~stocks, and the purchase of same shall be limited by the~~  
 112 ~~provisions of subparagraph (a)5.~~

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113            (b)4. Professional counsel.--The Board shall be required  
 114 to engage the services of professional investment counsel to  
 115 assist and advise the Trustees in the performance of their  
 116 duties.

117            (c) Restricted use of assets.--The assets of the Police  
 118 Pension Fund shall be used only for the payment of benefits and  
 119 other disbursements authorized by this act and shall be used for  
 120 no other purpose.

121            (d) Performance evaluation and manager selection.--At  
 122 least once every 3 years, the Board of Trustees shall retain an  
 123 independent consultant professionally qualified to evaluate the  
 124 performance of its professional money manager or investment  
 125 counsel. The independent consultant shall make recommendations  
 126 to the Board of Trustees regarding the selection of money  
 127 managers for the next investment term. These recommendations  
 128 shall be considered by the Board of Trustees at its next  
 129 regularly scheduled meeting. The date, time, place, and subject  
 130 of this meeting shall be advertised in a newspaper of general  
 131 circulation in the municipality at least 10 days prior to the  
 132 date of the hearing.

133            (e) Administrative expenses.--The administrative expenses  
 134 of the Fund shall be paid by the Fund.

135            (31) (a) Rollovers from qualified plans.--A member may roll  
 136 over all or a part of his or her interest in another qualified  
 137 plan to the Fund, provided all of the following requirements are  
 138 met:

139            1. Some or all of the amount distributed from the other  
 140 plan is rolled over to this plan no later than the 60th day

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141 after distribution was made from the Plan or, if distributions  
142 are made in installments, no later than the 60th day after the  
143 last distribution was made.

144 2. The amount rolled over to this Fund does not include  
145 any amount contributed by the member to the Plan on a posttax  
146 basis.

147 3. The rollover is made in cash.

148 4. The member certifies that the distribution is eligible  
149 for a rollover.

150 5. Any amount which the Trustees accept as a rollover to  
151 this Fund shall, along with any earnings allocated to them, be  
152 fully vested at all times.

153

154 A rollover may also be made to this Plan from an individual  
155 retirement account qualified under s. 408 of the Internal  
156 Revenue Code when the individual retirement account was merely  
157 used as a conduit for funds from another qualified plan and the  
158 rollover is made in accordance with the rules provided in  
159 subparagraphs 1.-5. Amounts rolled over may be segregated from  
160 other Fund assets. The trustees shall separately account for  
161 gains, losses, and administrative expenses of these rollovers as  
162 provided for in subsections (11) and (13). In addition, the Fund  
163 may accept the direct transfer of a member's benefits from  
164 another qualified retirement plan or an Internal Revenue Code  
165 section 457 plan. The Fund shall account for direct transfers in  
166 the same manner as a rollover and shall obtain certification  
167 from the member that the amounts are eligible for a rollover or  
168 direct transfer to this Fund.

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169           (b) Transfer of accumulated leave.--  
 170           1. Members who are eligible to receive a lump-sum payment  
 171 for ~~accumulated sick leave, accumulated vacation leave, or any~~  
 172 ~~other~~ accumulated leave payable upon separation and who have  
 173 funds remaining after the contributions to the health savings  
 174 account as required by the collective bargaining agreement shall  
 175 have the remaining leave payment transferred to the Fund up to  
 176 the amount permitted by law. Any additional amounts shall be  
 177 paid directly to the member. Members on whose behalf leave has  
 178 been transferred shall maintain the entire amount of the  
 179 transferred leave balance in the DROP or Share Account.  
 180           2. If a member on whose behalf the City makes a  
 181 transferred leave balance to the Plan dies after retirement or  
 182 other separation, then any person who would have received a  
 183 death benefit had the member died in service immediately prior  
 184 to the date of retirement or other separation shall be entitled  
 185 to receive an amount equal to the transferred leave balance in a  
 186 lump sum. In the case of a surviving spouse or former spouse, an  
 187 election may be made to transfer the leave balance to an  
 188 eligible retirement plan in lieu of the lump sum payment.  
 189 Failure to make such an election by the surviving spouse or  
 190 former spouse within 60 days after the member's death shall be  
 191 deemed an election to receive the lump sum payment.  
 192           3. The Board, by rule, shall prescribe the method for  
 193 implementing the provisions of this paragraph.  
 194           4. Amounts transferred under this section shall remain  
 195 invested in the Fund for a period of not less than 1 year.  
 196           (36) Reemployment after retirement.--

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197        (a) Reemployment by public or private employer.--Any  
 198 retiree who is retired under this Plan, except for disability  
 199 retirement as previously provided for, may be reemployed by any  
 200 public or private employer, except the City, and may receive  
 201 compensation from that employment without limiting or  
 202 restricting in any way the retirement benefits payable under  
 203 this Plan. Reemployment by the City on or after August 1, 2008,  
 204 shall be subject to the limitations set forth in this section.

205        (b) Reemployment after normal retirement outside Police  
 206 Department.--Any retiree who is retired under normal retirement  
 207 pursuant to this Plan and who is reemployed by the City after  
 208 that retirement shall, upon being reemployed, continue receipt  
 209 of benefits, provided the retiree is not hired into the Police  
 210 Department. Upon reemployment, the retiree is eligible to  
 211 participate in the plan offered to new employees of that  
 212 department, and the retiree shall be deemed a new employee  
 213 subject to any vesting and contribution requirements of that  
 214 plan. The benefit paid under this Plan shall not be changed in  
 215 any way.

216        (c) Reemployment after normal retirement in Police  
 217 Department.--Any retiree who is retired after normal retirement  
 218 pursuant to this Plan shall not be reemployed by the Police  
 219 Department as a police officer or in any position that  
 220 supervises police officers. The pension of a retiree who is  
 221 reemployed by the Police Department as a police officer or in  
 222 any position that supervises police officers shall stop until  
 223 the member terminates employment. However, a retiree who is  
 224 reemployed by the Police Department neither as a police officer



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225 nor in any position that supervises police officers is eligible  
 226 to participate in the plan offered to new employees of that  
 227 employee classification, and the retiree shall be deemed a new  
 228 employee subject to any vesting and contribution requirements of  
 229 that plan. The benefit paid under this Plan shall not be changed  
 230 in any way.

231 (d) Reemployment of terminated vested persons.--Reemployed  
 232 terminated vested persons shall not be subject to the provisions  
 233 of this section until such time as they begin to actually  
 234 receive benefits but shall be subject to paragraph (9)(c). Upon  
 235 receipt of benefits, terminated vested persons shall be treated  
 236 as normal retirees for purposes of applying the provisions of  
 237 this section.

238 (e) DROP participants.--Members or retirees who were in  
 239 the deferred retirement option plan shall have the options  
 240 provided for in this section for reemployment after termination  
 241 of employment as if the retiree were a retiree under normal  
 242 retirement.

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