

1                   A bill to be entitled  
2           An act relating to the West Palm Beach Police Pension Fund  
3           of the City of West Palm Beach, Palm Beach County;  
4           amending chapter 24981 (1947), Laws of Florida, as  
5           amended; revising the definition of the term "salary";  
6           authorizing other fiduciary designees to sign fund drafts;  
7           clarifying an exception relating to the adoption of  
8           experience tables and interest rates; providing for the  
9           adjustment of benefits when changing joint annuitants or  
10          beneficiaries; removing the requirement for a spouse's  
11          consent to waive a joint and survivor benefit; providing  
12          for quarterly adjustment of share accounts; providing an  
13          exception to an exclusion for disabled members; revising  
14          provisions relating to the payment of certain death  
15          benefits; providing for bimonthly refund repayments;  
16          requiring the board of trustees to identify and report any  
17          holdings in a scrutinized company; requiring divestiture  
18          of certain securities within a specified time; limiting  
19          board liability relating to such divestiture; removing a  
20          provision specifying notice requirements for certain board  
21          meetings; authorizing the withholding of certain  
22          retirement funds for certain purposes upon request of a  
23          retiree; reducing the amount of small retirement income  
24          that may be paid in a lump sum; authorizing certain city  
25          police officers to recontribute to the fund; revising  
26          provisions relating to determination of creditable service  
27          for members who die or become disabled while on active  
28          duty military service; providing for distribution of the

29 fund in the event of termination of the pension plan;  
 30 providing an effective date.

31

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

33

34 Section 1. Section 16 of chapter 24981 (1947), Laws of  
 35 Florida, as amended, is amended to read:

36 Section 16. West Palm Beach Police Pension Fund.—

37 (1) Creation of fund.—There is hereby created and  
 38 established a special fund for the police officers of the City  
 39 of West Palm Beach to be known as the West Palm Beach Police  
 40 Pension Fund. All assets of every description held in the name  
 41 of the West Palm Beach Police Pension and Relief Fund and in the  
 42 name of the West Palm Beach Pension Fund have been and continue  
 43 to be combined.

44 (2) Definitions.—The following words or phrases, as used  
 45 in this act, shall have the following meanings, unless a  
 46 different meaning is clearly indicated by the context:

47 (a) "Actuarial equivalent value," "actuarial equivalence,"  
 48 or "single sum value" means the stated determination using an  
 49 interest rate of 8.25 percent per year and the 1983 Group  
 50 Annuity Mortality Table.

51 (b) "Beneficiary" means any person, except a retirant, who  
 52 is entitled to receive a benefit from the West Palm Beach Police  
 53 Pension Fund or the West Palm Beach Police Pension and Relief  
 54 Fund, as applicable.

55 (c) "Board of Trustees" or "Board" means the Board of  
 56 Trustees provided for in this act.

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57 (d) "City" means the City of West Palm Beach, Florida.

58 (e) "Department" means the Police Department in the City  
59 of West Palm Beach.

60 (f) "Enrolled actuary" means an actuary who is enrolled  
61 under Subtitle C of Title III of the Employee Retirement Income  
62 Security Act of 1974 and who is a member of the Society of  
63 Actuaries or the American Academy of Actuaries.

64 (g) "Final average salary" means the average of the  
65 monthly salary paid a member in the 3 best years of employment.  
66 In no event shall any one year, beginning January 1, 2005,  
67 include more than 400 hours of overtime. Prior to January 1,  
68 2005, individual years may include more than 400 hours of  
69 overtime.

70 (h) "Fund" or "Pension Fund" means the West Palm Beach  
71 Police Pension Fund or the West Palm Beach Pension and Relief  
72 Fund, as applicable.

73 (i) "Member" or "participant" means any person who is  
74 included in the membership of the Fund in accordance with  
75 subsection (6).

76 (j) "Pension" means a monthly amount payable from the Fund  
77 throughout the future life of a person, or for a limited period  
78 of time, as provided in this act.

79 (k) "Police officer" means any person who is elected,  
80 appointed, or employed full time by the City, who is certified  
81 or required to be certified as a law enforcement officer in  
82 compliance with section 943.14, Florida Statutes, who is vested  
83 with authority to bear arms and make arrests, and whose primary  
84 responsibility is the prevention and detection of crime or the

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85 enforcement of the penal, criminal, traffic, or highway laws of  
86 the state. This definition includes all certified supervisory  
87 and command personnel whose duties include, in whole or in part,  
88 the supervision, training, guidance, and management  
89 responsibilities of full-time law enforcement officers, part-  
90 time law enforcement officers, or auxiliary law enforcement  
91 officers, but does not include part-time law enforcement  
92 officers or auxiliary law enforcement officers as the same are  
93 defined in subsections (6) and (8) of section 943.10, Florida  
94 Statutes.

95 (l) "Qualified health professional" means a person duly  
96 and regularly engaged in the practice of his or her profession  
97 who holds a professional degree from a university or college and  
98 has special professional training or skill regarding the  
99 physical or mental condition, disability, or lack thereof, upon  
100 which he or she is to present evidence to the Board.

101 (m) "Qualified public depository" means any bank or  
102 savings association organized and existing under the laws of  
103 Florida and any bank or savings association organized under the  
104 laws of the United States that has its principal place of  
105 business, or a branch office, in Florida which is authorized  
106 under the laws of Florida or the United States to receive  
107 deposits in Florida; that meets all of the requirements of  
108 chapter 280, Florida Statutes; and that has been designated by  
109 the Treasurer of the State of Florida as a qualified public  
110 depository.

111 (n) "Retirant" means any member who retires with a pension  
112 from the Fund.

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113 (o) "Retirement" means a member's withdrawal from Police  
114 Department employment as a police officer with a pension payable  
115 from the Fund.

116 (p) "Salary" means the fixed monthly compensation paid to  
117 a member; compensation shall include those items as have been  
118 included as compensation in accordance with past practice.  
119 However, the term shall not be construed to include lump sum  
120 payments for accumulated leave. On and after January 1, 2003,  
121 salary shall mean total cash remuneration paid by the City to a  
122 police officer for services rendered excluding lump sum payments  
123 for accumulated leave such as accrued vacation leave, accrued  
124 sick leave, and accrued personal leave. Effective January 1,  
125 2005, overtime hours earned and paid in excess of 400 hours in  
126 any 26 consecutive pay periods shall be excluded from the  
127 definition of salary; prior to January 1, 2005, all overtime  
128 hours earned and paid shall be included in the definition of  
129 salary and shall not be limited by any cap. This definition of  
130 compensation shall not include off-duty employment performed for  
131 vendors other than the City of West Palm Beach per Article 30,  
132 Pension Plan and Section 5 of the collective bargaining  
133 agreement between the Palm Beach County Police Benevolent  
134 Association and the City of West Palm Beach. Beginning with  
135 salary paid after December 31, 2008, and pursuant to s.  
136 414(u)(7) of the Internal Revenue Code, "salary" includes  
137 amounts paid by the City as differential wages to members who  
138 are absent from employment while in qualified military service.

139 (q) "Service" or "service credit" means the total number  
140 of years, and fractional parts of years, of employment of any

141 | police officer, omitting intervening years, and fractional parts  
 142 | of years, when such police officer was not employed by the City.  
 143 | No member shall receive credit for years, or fractional parts of  
 144 | years, of service for which the member has withdrawn his or her  
 145 | contributions to the Fund. It is further provided that a member  
 146 | may voluntarily leave his or her contributions in the Fund for a  
 147 | period of 5 years after leaving the employ of the Department,  
 148 | pending the possibility of being rehired by the Department,  
 149 | without losing credit for the time he or she has participated  
 150 | actively as a police officer. Should he or she not be re-  
 151 | employed as a police officer with the Department within 5 years,  
 152 | his or her contributions shall be returned without interest. In  
 153 | determining the aggregate number of years of service of any  
 154 | member, years of service for prior police officer or military  
 155 | service, as well as intervening military service, may be added,  
 156 | provided the member meets the requirements of subsection (35) ~~35~~  
 157 | ~~of the Plan.~~

158 |         (r) The masculine gender includes the feminine and words  
 159 | in the singular with respect to persons shall include the plural  
 160 | and vice versa.

161 |         (3) Board of Trustees of Police Pension Fund.—

162 |         (a) Board of Trustees created.—There is hereby created a  
 163 | Board of Trustees, which shall be solely responsible for  
 164 | administering the West Palm Beach Police Pension Fund. The Board  
 165 | shall be a legal entity, with the power to bring and defend  
 166 | lawsuits of every kind, nature, and description and shall be  
 167 | independent of the City to the extent required to accomplish the  
 168 | intent, requirements, and responsibilities provided for in this

169 act. The Board shall consist of five trustees, as follows:

170 1. Two legal residents of the City, who shall be appointed  
 171 by the City. Each resident trustee shall serve as a trustee for  
 172 a period of 2 years, unless sooner replaced by the City, at  
 173 whose pleasure he or she shall serve, and may succeed himself or  
 174 herself as a trustee.

175 2. Two police officers, who shall be elected by a majority  
 176 of the police officers who are members of the Fund. Elections  
 177 shall be held under such reasonable rules and regulations as the  
 178 Board shall from time to time adopt. Each member-trustee shall  
 179 serve as trustee for a period of 2 years, unless he or she  
 180 sooner ceases to be a police officer in the employ of the  
 181 Department, whereupon the members shall choose his or her  
 182 successor in the same manner as the original appointment. Each  
 183 member-trustee of the Fund may succeed himself or herself as a  
 184 trustee.

185 3. A fifth trustee, who shall be chosen by a majority of  
 186 the other four trustees. This fifth person's name shall be  
 187 submitted to the City, which shall, as a ministerial duty,  
 188 appoint such person to the Board as a fifth trustee. The fifth  
 189 person shall serve as trustee for a period of 2 years, and may  
 190 succeed himself or herself as a trustee.

191 (b) Board vacancy; how filled.—In the event a trustee  
 192 provided for in subparagraph (a)2. ceases to be a police officer  
 193 in the employ of the Department, he or she shall be considered  
 194 to have resigned from the Board. In the event a trustee provided  
 195 for in subparagraph (a)2. shall resign, be removed, or become  
 196 ineligible to serve as a trustee, the Board shall, by

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197 resolution, declare the office of trustee vacated as of the date  
198 of adoption of said resolution. If such a vacancy occurs in the  
199 office of trustee within 90 days of the next succeeding election  
200 for trustee, the vacancy shall be filled at the regular election  
201 for the next term; otherwise, the vacancy shall be filled for  
202 the unexpired portion of the term, as provided in subparagraph  
203 (a)2. In the event a trustee provided for in subparagraph (a)1.  
204 or subparagraph (a)3. shall resign, be removed, or become  
205 ineligible to serve as a trustee, the Board shall, by  
206 resolution, declare the office of trustee vacated as of the date  
207 of adoption of said resolution. The trustee's successor for the  
208 unexpired portion of said trustee's term shall be chosen in the  
209 same manner as an original appointment.

210 (c) Board meetings; quorum; procedures.—The Board shall  
211 hold meetings regularly, at least one in each quarter year, and  
212 shall designate the time and place thereof. At any meeting of  
213 the Board, three trustees shall constitute a quorum. Each  
214 trustee shall be entitled to one vote on each question before  
215 the Board and at least three concurring votes shall be required  
216 for a decision by the Board at any of its meetings. The Board  
217 shall adopt its own rules of procedure and shall keep a record  
218 of its proceedings. All public records of the Board shall be  
219 kept and maintained as required by law. All meetings of the  
220 Board shall be open to the public and shall be held as required  
221 by law.

222 (d) Board chair.—The Board shall elect from among the  
223 trustees a chair.

224 (e) Board secretary.—The Board shall elect from among the



225 trustees a secretary. The secretary shall keep a complete minute  
 226 book of the actions, proceedings, and hearings of the Board.

227 (f) Compensation.—The trustees of the Fund shall not  
 228 receive any compensation for their services as such, but may  
 229 receive expenses and per diem as provided by law.

230 (4) Professional and clerical services.—

231 (a) Pension administrator.—The pension administrator of  
 232 the Fund shall be designated by the Board and shall carry out  
 233 its orders and directions.

234 (b) Custodian of funds.—All moneys and securities of the  
 235 Fund may be deposited with the cash management coordinator of  
 236 the City, acting in a ministerial capacity only, who shall be  
 237 bonded and shall be liable in the same manner and to the same  
 238 extent as he or she is liable for the safekeeping of funds for  
 239 the City. However, any funds and securities deposited with the  
 240 cash management coordinator shall be kept in a separate fund by  
 241 the cash management coordinator or clearly identified as funds  
 242 and securities of the Fund. In lieu thereof, the Board shall  
 243 deposit the Funds and securities in a qualified public  
 244 depository designated by the Board.

245 1. The cash management coordinator or other designated  
 246 qualified public depository shall receive all moneys due said  
 247 Fund from all sources whatsoever. All tax revenue received  
 248 pursuant to the provisions of chapter 185, Florida Statutes,  
 249 shall be deposited into the Fund no more than 5 days after  
 250 receipt. Member contributions withheld by the City on behalf of  
 251 a member shall be deposited in the Fund immediately.

252 2. The Board may issue drafts upon the Fund pursuant to

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253 | this act and rules and regulations prescribed by the Board,  
254 | provided that such drafts shall be issued in accordance with  
255 | generally accepted accounting procedures, American Institute of  
256 | Certified Public Accountants guidelines, and rules of the State  
257 | of Florida Auditor General. All such drafts shall be  
258 | consecutively numbered and signed by the chair and secretary, or  
259 | other fiduciary designee, and each draft shall, upon its face,  
260 | state the purpose for which it is drawn. For this purpose, the  
261 | chair and secretary shall be bonded. The cash management  
262 | coordinator or other depository shall retain such drafts when  
263 | paid, as permanent vouchers for disbursements made, and no money  
264 | shall be otherwise drawn from the Fund. Payments from the Fund  
265 | shall be made only upon a specific or general motion or  
266 | resolution previously adopted by the Board authorizing such  
267 | payment or payments.

268 |       (c) Legal counsel.—The City Attorney shall give advice to  
269 | the Board in all matters pertaining to its duties in the  
270 | administration of the Fund whenever requested, shall represent  
271 | and defend the Board as its attorney in all suits and actions at  
272 | law or in equity that may be brought against it, and shall bring  
273 | all suits and actions in its behalf that may be required or  
274 | determined upon by said Board. However, if the Board so elects,  
275 | it may employ independent legal counsel at the Fund's expense  
276 | for the purposes set forth in this act.

277 |       (d) Actuary.—The Board shall designate an enrolled actuary  
278 | who shall be its technical advisor and who shall perform such  
279 | other actuarial services as are required.

280 |       (e) Certified public accountant.—The Board shall employ,

281 at its expense, a certified public accountant to conduct an  
 282 independent audit of the Fund. The certified public accountant  
 283 shall be independent of the Board and the City.

284 (f) Additional professional, technical, or other  
 285 services.—The Board shall have the authority to employ such  
 286 professional, technical, or other advisors as are required to  
 287 carry out the provisions of this act.

288 (5) Reports; experience tables; regular interest.—

289 (a) Reports.—The pension administrator shall keep, or  
 290 cause to be kept, such data as shall be necessary for an  
 291 actuarial valuation of the assets and liabilities of the Fund.

292 (b) Experience tables; regular interest; adoption of  
 293 same.—The Board shall, from time to time, adopt such mortality  
 294 and other tables of experience, and a rate or rates of interest,  
 295 as required to operate the Fund on an actuarial basis, except as  
 296 provided in subsection (34).

297 (6) Membership.—All police officers in the employ of the  
 298 Department shall be included in the membership of the Fund, and  
 299 all persons who hereafter become police officers in the employ  
 300 of the City shall thereupon become members of the Fund. Except  
 301 as otherwise provided in this act, should any member cease to be  
 302 a police officer in the employ of the Department, he or she  
 303 shall thereupon cease to be a member and his or her credited  
 304 service at that time shall be forfeited. In the event such  
 305 person is re-employed in the Department as a police officer, he  
 306 or she shall again become a member. His or her forfeited service  
 307 shall be restored to the member's credit, provided that he or  
 308 she returns to the Fund the amount he or she might have

309 | withdrawn, together with regular interest from the date of  
 310 | withdrawal to the date of repayment. Upon the member's  
 311 | retirement or death, he or she shall thereupon cease to be a  
 312 | member.

313 |       (7) Service credit.—Pursuant to appropriate rules and  
 314 | regulations, the Board shall determine and credit the amount of  
 315 | service to which each member shall be credited, consistent with  
 316 | the provisions of this act and chapter 185, Florida Statutes.

317 |       (8) Age and service requirements for retirement.—

318 |       (a) Normal retirement.—Upon written application filed with  
 319 | the Board, any member may retire and receive the applicable  
 320 | pension provided for in paragraph (9) (a), provided that the  
 321 | member has attained age 50 and has at least 20 years of credited  
 322 | service, has attained age 55 and has at least 10 years of  
 323 | credited service, or has at least 25 years of continuous  
 324 | credited service, regardless of age.

325 |       (b) Vested deferred retirement.—A member who leaves the  
 326 | employ of the Department with 10 or more years of credited  
 327 | service and who is not eligible for any other retirement benefit  
 328 | under this act shall be entitled to the pension provided for in  
 329 | this subsection. Payments of this pension shall begin the first  
 330 | day of the calendar month following the month in which his or  
 331 | her application is filed with and accepted by the Board on or  
 332 | after attainment of age 50 years. If applicable, the amount of  
 333 | the pension shall be determined in accordance with the early  
 334 | retirement provisions below.

335 |       (c) Early retirement.—Any member may retire from the  
 336 | service of the Department as of the first day of any calendar

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337 month which is prior to the member's normal retirement date but  
338 subsequent to the date as of which he or she has both attained  
339 the age of 50 and completed 10 years of credited service. In the  
340 event of early retirement, the monthly amount of retirement  
341 income payable shall be computed as described in paragraph  
342 (9) (a), taking into account his or her credited service to his  
343 or her date of actual retirement and his or her final average  
344 salary as of such date. The amount of retirement income shall be  
345 actuarially reduced to take into account the member's younger  
346 age and earlier commencement of retirement income benefits. The  
347 early retirement reduction shall be 3 percent for each year by  
348 which the member's age at retirement preceded the member's  
349 normal retirement age.

350 (9) Retirement pension calculation.—

351 (a) Upon retirement eligibility as provided in subsection  
352 (8), a member shall receive a monthly pension. The pension shall  
353 be the following, as applicable:

354 1. A member who has more than or equal to 12 years and 6  
355 months of service at October 1, 1999, and who was actively  
356 employed by the Department on or after October 1, 1999, shall  
357 receive a benefit equal to the greater of the following:

358 a. Three percent of final average salary multiplied by the  
359 number of years, and fraction of a year, of credited service  
360 earned from April 1, 1987, plus 2.5 percent of final average  
361 salary multiplied by the number of years, and fraction of a  
362 year, of credited service earned prior to April 1, 1987, up to a  
363 total of 26 years, plus 1 percent of the final average salary  
364 multiplied by the number of years, and fraction of a year, of

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365 credited service which is in excess of 26 years;

366       b. Two and one-half percent of final average salary  
 367 multiplied by the number of years, and fraction of a year, of  
 368 credited service, not to exceed 26 years, plus 1 percent of the  
 369 final average salary multiplied by the number of years, and  
 370 fraction of a year, of credited service which is in excess of 26  
 371 years; or

372       c. The sum of the following:

373       (I) Two and one-half percent of final average salary  
 374 multiplied by the number of years, and fraction of a year, of  
 375 credited service earned through September 30, 1988; and

376       (II) Two percent of final average salary multiplied by the  
 377 number of years, and fraction of a year, of credited service  
 378 earned on and after October 1, 1988.

379  
 380 However, in no event shall the benefit be less than 2 percent  
 381 per year of credited service.

382       2. A member who has more than 12 years and 6 months of  
 383 service and who has entered the DROP on or before October 1,  
 384 1999, and who was actively employed by the Department on October  
 385 1, 1999, shall receive a benefit equal to the greater of the  
 386 following:

387       a. Three percent of final average salary multiplied by the  
 388 number of years, and fraction of a year, of credited service  
 389 earned in the 12 years and 6 months prior to entering the DROP,  
 390 plus 2.5 percent of final average salary multiplied by the  
 391 number of years, and fraction of a year, of credited service  
 392 earned prior to that date which is 12 years and 6 months prior

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393 to entering the DROP, up to a total of 26 years, plus 1 percent  
394 of the final average salary multiplied by the number of years,  
395 and fraction of a year, of credited service which is in excess  
396 of 26 years. The one-half percent enhancement to the accrual  
397 rate shall also be applied retroactively to the date of entering  
398 the DROP, or 2 years, whichever is less, provided that the  
399 retroactive application shall include principal only and not any  
400 earnings thereon. An example of the calculation described in  
401 this sub-subparagraph is set forth in the collective bargaining  
402 agreement between the City of West Palm Beach and the Police  
403 Benevolent Association, Certified Unit No. 825, October 1, 1998-  
404 September 30, 2001;

405       b. Two and one-half percent of final average salary  
406 multiplied by the number of years, and fraction of a year, of  
407 credited service, not to exceed 26 years, plus 1 percent of the  
408 final average salary multiplied by the number of years, and  
409 fraction of a year, of credited service which is in excess of 26  
410 years; or

411       c. The sum of the following:

412           (I) Two and one-half percent of final average salary  
413 multiplied by the number of years, and fraction of a year, of  
414 credited service earned through September 30, 1988; and

415           (II) Two percent of final average salary multiplied by the  
416 number of years, and fraction of a year, of credited service  
417 earned on and after October 1, 1988.

418

419 However, in no event shall the benefit be less than 2 percent  
420 per year of credited service.

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421           3. A member who has less than 12 years and 6 months of  
422 service on October 1, 1999, and who was actively employed by the  
423 Department on or after October 1, 1999, shall receive a benefit  
424 equal to the greater of the following:

425           a. Three percent of final average salary multiplied by the  
426 number of years, and fraction of a year, of credited service up  
427 to a total of 26 years, plus 1 percent of the final average  
428 salary multiplied by the number of years, and fraction of a  
429 year, of credited service which is in excess of 26 years;

430           b. Two and one-half percent of final average salary  
431 multiplied by the number of years, and fraction of a year, of  
432 credited service, not to exceed 26 years, plus 1 percent of the  
433 final average salary multiplied by the number of years, and  
434 fraction of a year, of credited service which is in excess of 26  
435 years; or

436           c. The sum of the following:

437           (I) Two and one-half percent of final average salary  
438 multiplied by the number of years, and fraction of a year, of  
439 credited service earned through September 30, 1988; and

440           (II) Two percent of final average salary multiplied by the  
441 number of years, and fraction of a year, of credited service  
442 earned on and after October 1, 1988.

443

444 However, in no event shall the benefit be less than 2 percent  
445 per year of credited service.

446           4. A member who terminated employment, retired on a vested  
447 deferred benefit, or retired on or before October 1, 1999, shall  
448 receive a benefit equal to the greater of the following:



449 a. Two and one-half percent of final average salary  
 450 multiplied by the number of years, and fraction of a year, of  
 451 credited service not to exceed 26 years, plus 1 percent of the  
 452 final average salary multiplied by the number of years, and  
 453 fraction of a year, of credited service which is in excess of 26  
 454 years; or

455 b. The sum of the following:

456 (I) Two and one-half percent of final average salary  
 457 multiplied by the number of years, and fraction of a year, of  
 458 credited service earned through September 30, 1988; and

459 (II) Two percent of final average salary multiplied by the  
 460 number of years, and fraction of a year, of credited service  
 461 earned on and after October 1, 1988.

462  
 463 The 3-percent benefit accrual factor for active employees in  
 464 subparagraphs (a)1., 2., 3., and 4. is contingent on and subject  
 465 to the adoption and maintenance of the assumptions set forth in  
 466 subsection (34). If such assumptions are modified by  
 467 legislative, judicial, or administrative agency action and the  
 468 modification results in increased City contributions to the  
 469 Pension Fund, the 3-percent benefit accrual factor for active  
 470 employees in subparagraphs (a)1., 2., and 3. shall be  
 471 automatically decreased prospectively from the date of the  
 472 action, to completely offset the increase in City contributions.  
 473 However, in no event shall the benefit accrual factor in  
 474 subparagraphs (a)1., 2., 3., and 4. be adjusted below 2.5  
 475 percent.

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477 To the extent that the benefit accrual factor is less than 3  
478 percent for active members with less than 12 years and 6 months  
479 of service on October 1, 1999, the supplemental pension  
480 distribution calculation under subparagraph (12)(a)2. shall be  
481 adjusted for employees who retire or enter the DROP after  
482 October 1, 1999. The adjustment shall be to decrease the minimum  
483 return of 8.25 percent needed to afford the supplemental pension  
484 distribution, where the amount of the reduction is zero if an  
485 employee has been credited with 12 years and 6 months of service  
486 or more with the 3-percent benefit accrual factor or 1.25  
487 percent if an employee has been credited with no more than a  
488 2.5-percent benefit accrual factor. If an employee has been  
489 credited with less than 12 years and 6 months of service at the  
490 3-percent benefit accrual factor, then the accumulated amount  
491 over 2.5 percent for each year of service divided by one-half  
492 percent divided by 12.5 subtracted from 1 multiplied by 1.25  
493 percent is the reduction from 8.25 percent. An example of the  
494 calculation of the minimum return for the supplemental pension  
495 distribution as herein described is set forth in the collective  
496 bargaining agreement between the City of West Palm Beach and the  
497 Police Benevolent Association, Certified Unit No. 145 and  
498 Certified Unit No. 825, October 1, 1998-September 30, 2001.

499 (b) Payment of benefits.—

500 1. First payment.—Service pensions shall be payable on the  
501 first day of each month. The first payment shall be payable the  
502 first day of the month coincident with or next following the  
503 date of retirement or death, provided the member has completed  
504 the applicable age and service requirements.

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505           2. Last payment.—The last payment shall be the payment due  
 506 next preceding the member's death, except that payments shall be  
 507 continued to the designated beneficiary (or beneficiaries) if a  
 508 10-year certain benefit, a joint and survivor option, or  
 509 beneficiary benefits, as applicable, are payable.

510           (c) Normal form of retirement income; 10-year certain  
 511 benefit.—

512           1. Married member.—The normal form of retirement benefit  
 513 for a married member or for a member with dependent children or  
 514 parents shall be a pension and death benefits. The pension  
 515 benefit shall provide monthly payments for the life of the  
 516 member. Thereafter, death benefits shall be paid to the  
 517 beneficiary designated by the member as provided in subsection  
 518 (17).

519           2. Unmarried member.—The normal form of retirement benefit  
 520 for an unmarried member without dependent children or parents  
 521 shall be a 10- year certain benefit. This benefit shall pay  
 522 monthly benefits for the member's lifetime. In the event the  
 523 member dies after his or her retirement but before receiving  
 524 retirement benefits for a period of 10 years, the same monthly  
 525 benefit shall be paid to the beneficiary (or beneficiaries) as  
 526 designated by the member for the balance of such 10-year period  
 527 or, if no beneficiary is designated, to heirs at law, or estate  
 528 of the member, as provided in section 185.162, Florida Statutes.

529           (d) Optional forms of retirement income.—

530           1.a. In the event of normal, early, or disability  
 531 retirement, in lieu of the normal form of retirement income  
 532 payable as specified in paragraph (c), and in lieu of the death

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533 benefits as specified in subsection (17), a member, upon written  
534 request to the Board and subject to the approval of the Board,  
535 may elect to receive a retirement income of equivalent actuarial  
536 value payable in accordance with one of the following options:

537 (I) Lifetime option.—A retirement income of a larger  
538 monthly amount, payable to the member for his or her lifetime  
539 only.

540 (II) Joint and survivor option.—A retirement income of a  
541 modified monthly amount, payable to the member during the joint  
542 lifetime of the member and a dependent joint pensioner  
543 designated by the member, and following the death of either of  
544 them, 100 percent, 75 percent, 66-2/3 percent, or 50 percent of  
545 such monthly amounts, payable to the survivor for the lifetime  
546 of the survivor.

547 b. The member, upon electing any option of this paragraph,  
548 shall designate the joint pensioner or beneficiary (or  
549 beneficiaries) to receive the benefit, if any, payable in the  
550 event of his or her death, and shall have the power to change  
551 such designation from time to time; but any such change shall be  
552 deemed a new election and shall be subject to approval by the  
553 Board. Such designation shall name a joint pensioner or one or  
554 more primary beneficiaries where applicable. If a member has  
555 elected an option with a joint pensioner or beneficiary and his  
556 or her retirement income benefits have commenced, he or she may  
557 thereafter change the designated joint pensioner or beneficiary  
558 only twice. Any retired member who desires to change his or her  
559 joint pensioner or beneficiary shall file with the Board a  
560 notarized notice of such change. Upon receipt of a completed

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561 change of joint pensioner form or such other notice, the Board  
562 shall adjust the member's monthly benefit by the application of  
563 actuarial tables and calculations developed to ensure that the  
564 benefit paid is the actuarial equivalent of the present value of  
565 the member's current benefit and there is no impact to the Plan.

566 c. The consent of a member's joint pensioner or  
567 beneficiary to any such change shall not be required. ~~However,~~  
568 ~~the spouse of a married member must consent to any election to~~  
569 ~~waive a joint and survivor benefit by signing the election~~  
570 ~~before a notary public. The spouse's written consent must~~  
571 ~~acknowledge the effect of such a waiver. Consent of the spouse~~  
572 ~~shall not be required if the spouse cannot be located, or for~~  
573 ~~such other circumstances as may be prescribed by regulations of~~  
574 ~~the Secretary of the Treasury. Any consent by a spouse shall be~~  
575 ~~effective only with respect to such spouse.~~

576 d. For any other changes of beneficiaries, the Board may  
577 request such evidence of the good health of the joint pensioner  
578 who is being removed as it may require; and the amount of the  
579 retirement income payable to the member upon the designation of  
580 a new joint pensioner shall be actuarially redetermined, taking  
581 into account the ages and sex of the former joint pensioner, the  
582 new joint pensioner, and the member. Each such designation shall  
583 be made in writing on a form prepared by the Board, and, on  
584 completion, shall be filed with the Board. In the event that no  
585 designated beneficiary survives the member, such benefits as are  
586 payable in the event of the death of the member subsequent to  
587 his or her retirement shall be paid as provided in subparagraph  
588 (c)2.

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

592           a. If a member dies prior to his or her normal retirement  
593 date or early retirement date, whichever first occurs,  
594 retirement benefits shall be paid in accordance with subsection  
595 (17).

596           b. If the designated beneficiary (or beneficiaries) or  
597 joint pensioner dies before the member's retirement, the option  
598 elected shall be canceled automatically and a retirement income  
599 of the normal form and amount shall be payable to the member  
600 upon his or her retirement as if the election had not been made,  
601 unless a new election is made in accordance with the provisions  
602 of this paragraph or a new beneficiary is designated by the  
603 member prior to his or her retirement.

604           c. If a member continues in the employ of the Department  
605 after meeting the age and service requirements set forth in  
606 paragraph (8)(a) and dies prior to retirement and while an  
607 option provided for in this paragraph is in effect, monthly  
608 retirement income payments shall be paid, under the option, to a  
609 beneficiary (or beneficiaries) designated by the member in the  
610 amount or amounts computed as if the member had retired under  
611 the option on the date on which his or her death occurred.

612           3. No member may make any change in his or her retirement  
613 option after the date of cashing or depositing the first  
614 retirement check.

615           (e) Designation of beneficiary.—

616           1. Each member may, on a form provided for that purpose,

617 signed and filed with the Board, designate a beneficiary (or  
618 beneficiaries) to receive the benefit, if any, which may be  
619 payable in the event of the member's death; and each designation  
620 may be revoked by such member by signing and filing with the  
621 Board a new designation of beneficiary form. However, after the  
622 benefits have commenced, a retirant may change his or her  
623 designation of a joint annuitant or beneficiary only twice. If  
624 the retirant desires to change his or her joint annuitant or  
625 beneficiary, he or she shall file with the Board a notarized  
626 notice of such change either by registered letter or on a form  
627 as provided by the Board. Upon receipt of a completed change of  
628 joint annuitant form or such other notice, the Board shall  
629 adjust the member's monthly benefit by the application of  
630 actuarial tables and calculations developed to ensure that the  
631 benefit paid is the actuarial equivalent of the present value of  
632 the member's current benefit.

633 2. Absence or death of beneficiary.—If a deceased member  
634 failed to name a beneficiary in the manner prescribed in  
635 subparagraph 1., or if the beneficiary (or beneficiaries) named  
636 by a deceased member predeceases the member, death benefits, if  
637 any, which may be payable under this act on behalf of such  
638 deceased member may be paid, in the discretion of the Board, to:

- 639 a. The spouse or dependent child or children of the  
640 member;
- 641 b. The dependent living parent or parents of the member;
- 642 or
- 643 c. The estate of the member.

644 (10) Cost-of-living adjustments.—

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645 (a) The following words and phrases as used in this  
646 subsection mean:

647 1. Unadjusted amount of retirement benefit.—The amount of  
648 retirement benefit that would be paid a retiree or beneficiary  
649 of the provisions if this subsection were not applicable.

650 2. Consumer price index.—The consumer price index for  
651 urban wage earners and clerical workers as published by the  
652 United States Department of Labor, Bureau of Labor Statistics.  
653 Should the Bureau of Labor Statistics adopt a new base or modify  
654 the method of computation of the consumer price index so as to  
655 render it unsuitable, the Board shall make appropriate  
656 adjustments. The Board shall choose another index which it  
657 determines to be appropriate if the consumer price index is no  
658 longer published.

659 3. Retirement benefit effective date.—The date as of which  
660 payments of a retirement benefit first commence. A new effective  
661 date does not occur when a retiree dies and a retirement  
662 allowance is paid to a beneficiary.

663 4. Base month.—The more recent of the month of October  
664 1976, the month and year of the retirement benefit effective  
665 date, or the month and year in which the retiree attains age 64  
666 years.

667 (b) Subject to the limitations stated in this subsection,  
668 the unadjusted amount of the retirement benefit for retirees 65  
669 years of age or older shall be increased each January 1,  
670 beginning January 1, 1977. The retirement benefit shall increase  
671 by 3 percent multiplied by the number of complete years from the  
672 later of:



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- 673 1. January 1, 1976;  
 674 2. The retirement benefit effective date; or  
 675 3. The first day of the month after attainment of age 65  
 676 years

677  
 678 to January 1 of the year in which the adjustment is being made.

679 (c) The accumulated adjustments to a retirement benefit  
 680 after January 1, 1977, expressed as a percentage of the  
 681 unadjusted amount of retirement allowance, shall not exceed the  
 682 percentage increase in the consumer price index for the period  
 683 between the base month and the month of October in the year  
 684 preceding adjustment.

685 (d) An adjustment shall not be made on any January first  
 686 if the amount of the adjustment is less than 1 percent of the  
 687 unadjusted amount of retirement benefit.

688 (11) Chapter 185 share accounts.—

689 (a) A separate individual member account shall be  
 690 established and maintained in each member's name effective  
 691 October 1, 1988.

692 (b) Share account funding.—

693 1. Chapter 185 moneys.—Each individual member account  
 694 shall be credited with the moneys received from chapter 185,  
 695 Florida Statutes, tax revenues in June 1988 and thereafter.

696 2. Forfeitures.—In addition, any forfeitures as provided  
 697 in paragraph (e) shall be credited to the individual member  
 698 accounts in accordance with the formula set forth in paragraph  
 699 (c).

700 (c) Quarterly ~~annual~~ allocation of accounts.—

701           1. Moneys shall be credited to each individual member  
 702 account in an amount directly proportionate to the number of pay  
 703 periods for which the member was paid compared to the total  
 704 number of pay periods for which all members were paid, counting  
 705 the pay periods in the calendar year preceding the date for  
 706 which chapter 185, Florida Statutes, tax revenues were received.

707           2. At the end of each fiscal quarter ~~year (September 30)~~,  
 708 each individual member account shall be adjusted to reflect the  
 709 earnings or losses resulting from investments, as well as  
 710 reflecting the costs, fees, and expenses of administration.

711           3. Effective October 1, 2002, vested Participants have the  
 712 option to select between two methods to credit investment  
 713 earnings to their account. The method may be changed each year  
 714 effective October 1; however, the method must be elected prior  
 715 to October 1. The methods are:

716           a. The investment earnings (or losses) credited to the  
 717 individual member accounts shall be the same percentage as are  
 718 earned (or lost) by the total investment earnings (or losses) of  
 719 the Fund as a whole, unless the Board dedicates a separate  
 720 investment portfolio for chapter 185, Florida Statutes, share  
 721 accounts, in which case the investment earnings (or losses)  
 722 shall be measured by the investment earnings (or losses) of the  
 723 separate investment portfolio.

724           b. A fixed annual rate of 8.25 percent.

725           4. Costs, fees, and expenses of administration shall be  
 726 debited from the individual member accounts on a proportionate  
 727 basis, taking the costs, fees, and expenses of administration of  
 728 the Fund as a whole, multiplied by a fraction, the numerator of

729 which is the total of the assets in all individual member  
730 accounts and the denominator of which is the total of the assets  
731 of the Fund as a whole. The proportionate share of the costs,  
732 fees, and expenses shall be debited to each individual member  
733 account on a pro rata basis in the same manner as chapter 185,  
734 Florida Statutes, tax revenues are credited to each individual  
735 member account (i.e., based on pay periods).

736 ~~5. If the entire balance of the individual member account~~  
737 ~~is withdrawn before September 30 of any year, there shall be no~~  
738 ~~adjustment made to that individual member account to reflect~~  
739 ~~either investment earnings (or losses) or costs, fees, and~~  
740 ~~expenses of administration.~~

741 (d) Eligibility for benefits.—Any member who terminates  
742 employment with the City, upon application filed with the Board,  
743 shall be entitled to 100 percent of the value of his or her  
744 individual member account, provided the member meets any of the  
745 following criteria:

746 1. The member is eligible to receive a pension as provided  
747 in subsection (8);

748 2. The member has 5 or more years of credited service and  
749 is eligible to receive either:

750 a. A nonduty disability pension as provided in paragraph  
751 (14) (a); or

752 b. Death benefits for nonduty death as provided in  
753 paragraph (17) (a); or

754 3. The member has any credited service and is eligible to  
755 receive either:

756 a. A duty disability pension as provided in subsection

757 (15); or

758 b. Death benefits for death in the line of duty as  
759 provided in paragraph (17) (b).

760 (e) Forfeitures.—Any member who has less than 10 years of  
761 credited service and who is not eligible for payment of benefits  
762 after termination of employment with the City shall forfeit his  
763 or her individual member account. The amounts credited to said  
764 individual member account shall be redistributed to the  
765 remaining individual member accounts in the same manner as  
766 chapter 185, Florida Statutes, tax revenues are credited (i.e.,  
767 based on pay periods).

768 (f) Payment of benefits.—The normal form of benefit  
769 payment shall be a lump sum payment of the entire balance of the  
770 member's individual member account or upon the written election  
771 of the member, upon a form provided by the Board; and payment  
772 shall be made:

- 773 1. Over 3 years in annual installments; or
- 774 2. In monthly installments over the lifetime of the member  
775 or until the entire balance is exhausted. The monthly amount  
776 paid shall be determined by the Fund's actuary in accordance  
777 with selections made by the member on a form provided by the  
778 Board of Trustees.

779 (g) Death of member.—If a member dies and is eligible for  
780 benefits from the individual member account, the entire balance  
781 of the individual member account shall be converted to the name  
782 of the beneficiary designated in accordance with paragraph  
783 (9) (e). The entire balance shall be paid out in a lump sum to  
784 the beneficiary, at the discretion of the beneficiary. If the

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785 designated beneficiary is the surviving spouse, the account may  
786 remain with the Fund until the latest period specified under  
787 subsection (30). These individual accounts shall not be eligible  
788 for any further shares of the Chapter 185 moneys but shall be  
789 credited with interest. If a member fails to designate a  
790 beneficiary, or if the beneficiary predeceases the member, the  
791 entire balance shall be converted, in the following order, to  
792 the name or names of:

- 793 1. The member's surviving children on a pro rata basis;
- 794 2. If no children are alive, the member's spouse;
- 795 3. If no spouse is alive, the member's surviving parents  
796 on a pro rata basis; or
- 797 4. If none are alive, the estate of the member.

798  
799 The accounts which are converted to the names of the  
800 beneficiaries shall have the right to name a successor  
801 beneficiary. Any designated beneficiary, other than the  
802 surviving spouse of the member, must take a distribution of the  
803 entire share account balance by the end of 5 years following the  
804 death of the member. Installment distributions which begin in  
805 the calendar year of the member's death shall be treated as  
806 complying with this 5-year distribution requirement, even though  
807 the installments are not completed within 5 years after the  
808 member's death.

809 (12) Supplemental pension distribution.—

810 (a) The Board of Trustees shall annually authorize a  
811 supplemental pension distribution, the amount of which shall be  
812 determined as of each September 30, as applicable.

813 1. For employees who retired prior to October 1, 1999, the  
 814 amount of the distribution shall be equal to the actuarial  
 815 present value of future pension payments to those ~~current~~  
 816 pensioners, multiplied by the positive difference, if any,  
 817 between the rate of investment return (not to exceed 9 percent)  
 818 and 7 percent, plus one-half of any investment earnings over 9  
 819 percent.

820 2. For those employees who have more than 12-1/2 years of  
 821 service on and after October 1, 1999, or who are part of the  
 822 DROP on or after October 1, 1999, the amount of the distribution  
 823 shall be equal to the actuarial present value of future pension  
 824 payments to those pensioners multiplied by the positive  
 825 difference, if any, between the rate of investment return (not  
 826 to exceed 9 percent) and 7 percent, plus one-half of any  
 827 investment earnings over 9 percent.

828 3. For those employees who have less than 12-1/2 years of  
 829 service as of October 1, 1999, the amount of the distribution  
 830 shall be equal to the actuarial present value of future pension  
 831 payments to those pensioners multiplied by the positive  
 832 difference, if any, between the rate of investment return (not  
 833 to exceed 9 percent) and 8.25 percent, plus one-half of any  
 834 investment earnings over 9 percent.

835 (b) The actuary shall determine whether there may be a  
 836 supplemental pension distribution based on the following  
 837 factors:

838 1. The actuary for the Pension Fund shall determine the  
 839 rate of investment return earned on the Pension Fund assets  
 840 during the 12-month period ending each September 30. The rate

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841 determined shall be the rate reported in the most recent  
842 actuarial report submitted pursuant to part VII of chapter 112,  
843 Florida Statutes.

844 2. The actuary for the Pension Fund shall, as of September  
845 30, determine the actuarial present value of future pension  
846 payments to current pensioners. The actuarial present values  
847 shall be calculated using an interest rate of 7 percent per year  
848 compounded annually, and a mortality table approved by the Board  
849 of Trustees and as used in the most recent actuarial report  
850 submitted pursuant to part VII of chapter 112, Florida Statutes.

851 3. The supplemental pension distribution amount shall not  
852 exceed accumulated net actuarial experience from all pension  
853 liabilities and assets. If the net actuarial experience is  
854 favorable, cumulatively, commencing with the experience for the  
855 year ending September 30, 1991, after offset for all prior  
856 supplemental distributions, the supplemental distribution may be  
857 made. If the net actuarial experience is unfavorable,  
858 cumulatively, commencing with the experience for the year ended  
859 September 30, 1991, after offset for all prior supplemental  
860 distributions, no supplemental distribution may be made, and the  
861 City must amortize the loss until it is offset by cumulative  
862 favorable experience.

863  
864 If an actuarial report submitted as provided in this paragraph  
865 is not state accepted prior to distribution, and if a deficiency  
866 to the Pension Fund results, the deficiency shall be made up  
867 from the next available supplemental pension distribution,  
868 unless sooner made up by agreement between the Board of Trustees

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869 and the City. No such deficiency shall be permitted to continue  
870 for a period greater than 3 years from the date of payment of  
871 the supplemental pension distribution which resulted from the  
872 deficiency.

873 (c) If the actuary determines there may be a supplemental  
874 distribution, the Board of Trustees shall authorize a  
875 "supplemental pension distribution," unless the administrative  
876 expenses of distribution exceed the amount available for the  
877 distribution.

878 (d) Eligible persons are:

- 879 1. Pensioners.
- 880 2. Surviving spouses.
- 881 3. Surviving dependent children.
- 882 4. Pensioners' estates.

883 (e) The supplemental pension distribution shall be  
884 allocated among eligible persons based upon years of service in  
885 the proportion that the eligible person's years of service bear  
886 to the aggregate amount of years of service of all eligible  
887 persons. Allocations for surviving spouses and surviving  
888 dependent children who are eligible to receive supplemental  
889 pension distributions shall be  $66\frac{2}{3}$  percent of the years of  
890 service earned by the pensioner. Maximum service credits shall  
891 be 25 years. Allocations for duty-disability pensioners shall be  
892 based upon 25 years of service. Allocations for duty-death  
893 beneficiaries (surviving spouse and surviving dependent  
894 children) shall be based upon  $66\frac{2}{3}$  percent of 25 years of  
895 service.

896 (f) The supplemental pension distribution shall be made as



897 of April 1, 1992, and each April 1 thereafter. Each eligible  
898 person shall be paid his or her allocated portion from the  
899 preceding September 30. Eligible persons retired for less than 1  
900 year are entitled to a pro rata share of their supplemental  
901 pension distribution based on the number of months retired. A  
902 pensioner's estate is entitled to a pro rata share of the  
903 deceased retirant's supplemental pension distribution based on  
904 the number of months that the deceased retirant received a  
905 pension during the year ending the September 30 prior to the  
906 retirant's death.

907 (13) Deferred Retirement Option Plan (DROP).—

908 (a) Eligibility to participate in the DROP.—

909 1. Any member who is eligible to receive a normal  
910 retirement pension may participate in the DROP. Members shall  
911 elect to participate by applying to the Board of Trustees on a  
912 form provided for that purpose.

913 2. Election to participate shall be forfeited if not  
914 exercised within the first 27 years of combined credited  
915 service.

916 3. A member shall not participate in the DROP beyond the  
917 time of attaining 30 years of service and the total years of  
918 participation in the DROP shall not exceed 5 years. For example:

919 a. Members with 25 years of credited service at the time  
920 of entry shall participate for only 5 years.

921 b. Members with 26 years of credited service at the time  
922 of entry shall participate for only 4 years.

923 c. Members with 27 years of credited service at the time  
924 of entry shall participate for only 3 years.

925           4. Upon a member's election to participate in the DROP, he  
 926 or she shall cease to be a member and shall no longer accrue any  
 927 benefits under the Pension Fund, except for the benefits  
 928 provided under subsection (11), Chapter 185 share accounts. For  
 929 all Fund purposes, the member becomes a retirant, except that a  
 930 DROP participant shall continue to receive shares of the chapter  
 931 moneys in accordance with subsection (11), Chapter 185 share  
 932 accounts. DROP members shall also be eligible to vote as members  
 933 for purposes of election of the member-trustee. The amount of  
 934 credited service shall freeze as of the date of entry into the  
 935 DROP.

936           (b) Amounts payable upon election to participate in DROP.—

937           1. Monthly retirement benefits that would have been  
 938 payable had the member terminated employment with the Department  
 939 and elected to receive monthly pension payments shall be paid  
 940 into the DROP and credited to the retirant. Payments into the  
 941 DROP shall be made monthly over the period the retirant  
 942 participates in the DROP, up to a maximum of 60 months.

943           2. Effective October 1, 2002, DROP Participants have the  
 944 option to select between two methods to credit investment  
 945 earnings to their account. The method may be changed each year  
 946 effective October 1; however, the method must be elected prior  
 947 to October 1. The methods are:

948           a. Earnings using the rate of investment return earned (or  
 949 lost) on Pension Fund assets as reported by the Fund's  
 950 investment monitor. DROP assets are commingled with the Pension  
 951 Fund assets for investment purposes.

952           b. A fixed rate of 8.25 percent.

953  
 954 However, if a police officer does not terminate employment at  
 955 the end of participation in the DROP, interest credits shall  
 956 cease on the balance.

957 3. No payments shall be made from the DROP until the  
 958 member terminates employment with the Department.

959 4. Upon termination of employment, participants in the  
 960 DROP shall receive the balance of the DROP account in accordance  
 961 with the following rules:

962 a. Members may elect to begin to receive payment upon  
 963 termination of employment or defer payment of the DROP until the  
 964 latest day as provided under sub-subparagraph c.

965 b. Payments shall be made in either:

966 (I) Lump sum.—The entire account balance shall be paid to  
 967 the retirant upon approval of the Board of Trustees.

968 (II) Installments.—The account balance shall be paid out  
 969 to the retirant in three equal payments paid over 3 years, the  
 970 first payment to be made upon approval of the Board of Trustees.

971 (III) Annuity.—The account balance shall be paid out in  
 972 monthly installments over the lifetime of the member or until  
 973 the entire balance is exhausted. Monthly amount paid shall be  
 974 determined by the Fund's actuary in accordance with selections  
 975 made by the member on a form provided by the Board of Trustees.

976 c. Any form of payment selected by a police officer must  
 977 comply with the minimum distribution requirements of s.  
 978 401(A) (9) of the Internal Revenue Code and is subject to the  
 979 requirements of subsection (30) ~~(29)~~ of this act; e.g., payments  
 980 must commence by age 70-1/2.

981 d. The beneficiary of the DROP participant who dies before  
 982 payments from the DROP begin shall have the same right as the  
 983 participant in accordance with subsection (17).

984 e. Costs, fees, and expenses of administration shall be  
 985 debited from the individual member accounts on a proportionate  
 986 basis, taking the cost, fees, and expenses of administration of  
 987 the Fund as a whole, multiplied by a fraction, the numerator of  
 988 which is the total assets in all individual member accounts and  
 989 the denominator of which is the total assets of the Fund as a  
 990 whole.

991 (c) Loans from the DROP.—

992 1. Availability of loans.—

993 a. Loans are available to members only after termination  
 994 of employment, provided the member had participated in the DROP  
 995 for a period of 12 months.

996 b. Loans may only be made from a member's own account.

997 c. There may be no more than one loan at a time.

998 2. Amount of loan.—

999 a. Loans may be made up to a maximum of 50 percent of  
 1000 account balance.

1001 b. The maximum dollar amount of a loan is \$50,000, reduced  
 1002 by the highest outstanding loan balance during the last 12  
 1003 months.

1004 c. The minimum amount of a loan is \$5,000.

1005 3. Limitations on loans.—Loans shall be made from the  
 1006 amounts paid into the DROP and the earnings thereon.

1007 4. Term of loan.—

1008 a. The loan must be for at least 1 year.

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- 1009 |           b. The loan shall be no longer than 5 years.
- 1010 |           5. Loan interest rate.—
- 1011 |           a. The interest rate shall be fixed at the time the loan
- 1012 | is originated for the entire term of the loan.
- 1013 |           b. The interest rate shall be equal to the prime rate
- 1014 | published by an established local bank on the last day of each
- 1015 | calendar quarter preceding the date of loan application.
- 1016 |           6. Defaults on loans.—
- 1017 |           a. Loans shall be in default if 2 consecutive months'
- 1018 | repayments are missed or if a total of 4 months' repayments are
- 1019 | missed.
- 1020 |           b. Upon default, the entire balance becomes due and
- 1021 | payable immediately.
- 1022 |           c. If a loan in default is not repaid in full immediately,
- 1023 | the loan may be canceled and the outstanding balance treated as
- 1024 | a distribution, which may be taxable.
- 1025 |           d. Upon default of a loan, a member shall not be eligible
- 1026 | for additional loans.
- 1027 |           7. Miscellaneous provisions.—
- 1028 |           a. All loans must be evidenced by a written loan agreement
- 1029 | signed by the member and the Board of Trustees. The agreement
- 1030 | shall contain a promissory note.
- 1031 |           b. A member's spouse must consent in writing to the loan.
- 1032 | The consent shall acknowledge the effect of the loan on the
- 1033 | member's account balance.
- 1034 |           c. Loans shall be considered a general asset of the Fund.
- 1035 |           d. Loans shall be subject to administrative fees to be set
- 1036 | by the Board of Trustees.

1037 (14) Nonduty disability pension.—

1038 (a) Retirement.—Any member who entered the employ of the  
 1039 Department as a police officer after September 30, 1961, and who  
 1040 has 5 or more years of credited service, who becomes physically  
 1041 or mentally, totally and permanently disabled to perform the  
 1042 duties of a police officer, shall be retired with a pension  
 1043 provided for in this subsection upon his or her application, or  
 1044 upon the application of the Police Chief on his or her behalf,  
 1045 filed with the Board, provided that after a medical examination  
 1046 of the member made by or under the direction of the medical  
 1047 committee, the medical committee reports to the Board in writing  
 1048 whether:

1049 1. The member is wholly prevented from rendering useful  
 1050 and efficient service as a police officer; and

1051 2. The member is likely to remain so disabled continuously  
 1052 and permanently.

1053  
 1054 The Board may admit and consider any other evidence that will  
 1055 assist it in understanding the medical committee's report. The  
 1056 final decision as to whether a member meets the requirements for  
 1057 a nonduty disability pension rests with the Board and shall be  
 1058 based on substantial competent evidence on the record as a  
 1059 whole.

1060 (b) Nonduty disability pension benefits; disability occurs  
 1061 after age and service eligibility.—A member whose retirement on  
 1062 account of disability, as provided in paragraph (a), occurs on  
 1063 or after the date he or she became eligible to retire under  
 1064 subsection (8) shall receive the applicable pension provided for

1065 in subsection (9).

1066 (c) Nonduty disability pension benefits; disability occurs  
 1067 before age and service eligibility.—A member whose retirement on  
 1068 account of disability, as provided in paragraph (a), occurs  
 1069 prior to the date he or she would have become eligible to retire  
 1070 under paragraph (8)(a) shall receive a disability pension equal  
 1071 to the applicable pension payable in subsection (9), provided  
 1072 that:

1073 1. If the member has less than 10 years of credited  
 1074 service, the disability pension shall not be less than 20  
 1075 percent of his or her final average salary as of his or her  
 1076 disability retirement date;

1077 2. If the member has at least 10 years of credited  
 1078 service, the disability pension shall not be less than 25  
 1079 percent of his or her final average salary as of his or her  
 1080 disability retirement date; and

1081 3. The disability pension shall be subject to the  
 1082 provisions of subsection (18).

1083 (15) Duty disability pension.—

1084 (a) Retirement.—Any member who becomes physically or  
 1085 mentally, totally and permanently disabled to perform the duties  
 1086 of a police officer by reason of a personal injury or disease  
 1087 arising out of and in the course of the performance of his or  
 1088 her duties as a police officer in the employ of the City shall  
 1089 be retired with a pension provided for in this subsection,  
 1090 provided that, after a medical examination of the member made by  
 1091 or under the direction of the medical committee, the medical  
 1092 committee reports to the Board in writing whether:

- 1093           1. The member is wholly prevented from rendering useful  
 1094 and efficient service as a police officer; and  
 1095           2. The member is likely to remain so disabled continuously  
 1096 and permanently.

1097  
 1098 The Board may admit and consider any other evidence that will  
 1099 assist it in understanding the medical committee's report. Any  
 1100 condition or impairment of health of a member caused by  
 1101 tuberculosis, hypertension, heart disease or hardening of the  
 1102 arteries, hepatitis, or meningococcal meningitis resulting in  
 1103 total or partial disability or death shall be presumed to be  
 1104 accidental and suffered in line of duty unless the contrary be  
 1105 shown by competent evidence. Any condition or impairment of  
 1106 health caused directly or proximately by exposure, which  
 1107 exposure occurred in the active performance of duty at some  
 1108 definite time or place without willful negligence on the part of  
 1109 the member, resulting in total or partial disability shall be  
 1110 presumed to be accidental and suffered in the line of duty,  
 1111 provided that such member shall have successfully passed a  
 1112 physical examination upon entering such service, which physical  
 1113 examination, including electrocardiogram, failed to reveal any  
 1114 evidence of such condition. In order to be entitled to the  
 1115 presumption in the case of hepatitis, meningococcal meningitis,  
 1116 or tuberculosis, the member must meet the requirements of  
 1117 section 112.181, Florida Statutes. The final decision as to  
 1118 whether a member meets the requirements for duty disability  
 1119 pension rests with the Board and shall be based on substantial  
 1120 competent evidence on the record as a whole.



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1121 (b) Duty disability pension benefits; disability occurs  
1122 after age and service eligibility.—A member whose retirement on  
1123 account of disability, as provided in paragraph (a), occurs on  
1124 or after the date he or she becomes eligible to retire under  
1125 subsection (8) shall receive the applicable pension provided for  
1126 in subsection (9).

1127 (c) Duty disability pension benefits; disability occurs  
1128 before age and service eligibility.—A member whose retirement on  
1129 account of disability, as provided in paragraph (a), occurs  
1130 prior to the date he or she would become eligible to retire  
1131 under subsection (8) shall receive a disability pension equal to  
1132 the appropriate pension payable in subsection (9). The  
1133 disability pension payable to age 55 shall not be less than two-  
1134 thirds of his or her final average salary. Upon reaching age 55,  
1135 the member shall begin receiving a pension computed in  
1136 accordance with the applicable provisions of subsection (9). In  
1137 calculating the new pension figure, the member shall be given  
1138 service credit for the period he or she was in receipt of the  
1139 disability pension provided for in this paragraph. Any pension  
1140 payable under this subsection shall be subject to the provisions  
1141 of subsection (18).

1142 (16) Conditions applicable to all disability retirants.—

1143 (a) Medical committee.—The medical committee provided for  
1144 in subsections (14) and (15) shall consist of no less than two  
1145 qualified health professionals, one of whom shall be designated  
1146 by the Board, and one by the member. If deemed necessary by the  
1147 Board, a third qualified health professional, selected by the  
1148 two committee members previously designated, may be named to the

1149 | medical committee. The member shall be responsible for the  
 1150 | expenses of the qualified health professional he or she  
 1151 | designates to serve on the medical committee. Expenses for any  
 1152 | other medical examination required under this act shall be paid  
 1153 | by the Fund. The medical committee shall report to the Board the  
 1154 | existence and degree of permanent physical impairment of the  
 1155 | member, if any, based upon the most recent edition of the  
 1156 | American Medical Association's Guide to the Evaluation of  
 1157 | Permanent Impairment, if applicable.

1158 |       (b) Exclusions from disability pensions.—No disability  
 1159 | pension shall be payable, either as a duty disability or as a  
 1160 | nonduty disability, if the disability is the result of:

1161 |       1. Excessive and habitual use by the member of drugs,  
 1162 | intoxicants, or narcotics;

1163 |       2. Injury or disease sustained by the member while  
 1164 | willfully and illegally participating in fights, riots, or civil  
 1165 | insurrections or while committing a crime;

1166 |       3. Injury or disease sustained by the member while serving  
 1167 | in any armed forces. This exclusion does not affect members who  
 1168 | have become disabled as a result of intervening military service  
 1169 | under the federal Heroes Earnings Assistance and Relief Tax Act  
 1170 | of 2008 (H.R. 6081; P.L. 110-245);

1171 |       4. Injury or disease sustained by the member after his or  
 1172 | her employment has terminated;

1173 |       5. Injury or disease sustained by the member while working  
 1174 | for anyone other than the City and arising out of such  
 1175 | employment; or

1176 |       6. Injury or disease sustained by the member before

1177 employment with the City begins. This exclusion ~~subparagraph~~  
 1178 applies only in the event of an application for a duty  
 1179 disability benefit ~~injury or disease~~.

1180 (c) Payment of disability pensions.—Monthly disability  
 1181 retirement benefits shall be payable as of the date the Board  
 1182 determines that the member was entitled to a disability pension;  
 1183 however, the first payment shall actually be paid on the first  
 1184 day of the first month after the Board determines such  
 1185 entitlement. Any portion due for a partial month shall be paid  
 1186 together with the first payment. The last payment shall be, if  
 1187 the member recovers from the disability prior to his or her  
 1188 normal retirement date, the payment due next preceding the date  
 1189 of recovery or, if the member dies without recovering from his  
 1190 or her disability, then the following shall apply:

1191 1. Member with 10 or more years of service.—Death benefits  
 1192 as set forth in subsection (17) shall be paid.

1193 2. Member with less than 10 years of service.—Payments  
 1194 shall be made until the member's death.

1195  
 1196 Any monthly disability retirement income payments due after the  
 1197 death of a disabled member shall be paid to the member's  
 1198 designated beneficiary (or beneficiaries) as provided in section  
 1199 185.162, Florida Statutes, or paragraph (9) (e) or subsection  
 1200 (17), as applicable.

1201 (d) Normal form of disability retirement income.—

1202 1. Duty or nonduty disability with 10 years of service.—

1203 a. Married member.—The standard form of disability  
 1204 retirement benefit for a married member or for a member with

1205 dependent children or parents shall be a disability pension and  
 1206 death benefit. This form of benefit shall provide monthly  
 1207 payments for the life of the member as set forth in subsection  
 1208 (14) or subsection (15), as applicable, or the disability  
 1209 retiree may select optional forms of benefits in accordance with  
 1210 paragraph (9) (d). Thereafter, death benefits shall be paid as  
 1211 provided in subsection (17).

1212 b. Unmarried member.—The standard form of disability  
 1213 retirement benefit for a member who is not married or who does  
 1214 not have dependent children or parents shall be a 10-year  
 1215 certain benefit. This benefit shall pay monthly benefits for the  
 1216 member's lifetime. In the event the member dies after his or her  
 1217 retirement but before he or she has received disability  
 1218 retirement benefits for a period of 10 years, the same monthly  
 1219 benefit shall be paid to the beneficiary (or beneficiaries) as  
 1220 designated by the member for the balance of such 10-year period.  
 1221 In the absence of a designated beneficiary, then the benefits  
 1222 shall be paid to the estate of the retiree.

1223 2. Duty or nonduty disability with less than 10 years of  
 1224 service.—The standard form of disability retirement benefit  
 1225 shall provide monthly payments for the life of a member as set  
 1226 forth in subsection (14) or subsection (15), as applicable.  
 1227 Thereafter, beneficiary benefits shall be paid as provided in  
 1228 subsection (17), as applicable.

1229 (e) Reexaminations of disability retirants.—At least once  
 1230 each year during the first 5 years following a member's  
 1231 retirement on account of disability, and at least once in each  
 1232 3-year period thereafter, the Board shall require any disability

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1233 | retirant who has not attained age 50 to undergo a medical  
1234 | examination by a physician designated by the Board. If the  
1235 | retirant refuses to submit to the medical examination, his or  
1236 | her disability pension may be suspended by the Board until his  
1237 | or her withdrawal of such refusal. If such refusal continues for  
1238 | 1 year, all of his or her rights in and to a disability pension  
1239 | may be revoked by the Board. If, upon medical examination of  
1240 | such retirant, the physician reports to the Board that the  
1241 | retirant is physically able and capable of performing the duties  
1242 | of a police officer in the rank held by him or her at the time  
1243 | of his or her retirement, the retirant shall be returned to  
1244 | employment in the Department at a salary not less than the  
1245 | salary of the rank previously held by him or her. The disability  
1246 | pension shall then terminate.

1247 |       (f) Credited service for disability retirant.—In the event  
1248 | a disability retirant is returned to employment in the  
1249 | Department, as provided in paragraph (e), he or she shall again  
1250 | become a member of the Fund and shall be restored the credited  
1251 | service at the time of the member's retirement. If he or she  
1252 | retired under a duty disability as provided in paragraph  
1253 | (15) (a), he or she shall be given service credit for the period  
1254 | he or she was in receipt of a disability pension. If the member  
1255 | retired under a nonduty disability as provided in paragraph  
1256 | (14) (a), then he or she shall not be given service credit for  
1257 | the period he or she was in receipt of a disability pension.

1258 |       (17) Death benefits.—

1259 |       (a) Nonduty death while employed by the department; 5  
1260 | years or more.—In the event a member who has 5 or more years of

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1261 credited service dies, and the Board finds his or her death to  
1262 have occurred as the result of causes arising outside the  
1263 performance of his or her duties as a member, the following  
1264 applicable pensions shall be paid:

1265 1. A pension equal to two-thirds of the pension to which  
1266 he or she would have been entitled under subsection (9) if he or  
1267 she had retired the day preceding the date of his or her death,  
1268 notwithstanding that he or she might not have satisfied a  
1269 retirement age and service requirement stipulated in subsection  
1270 (8), provided that the "widow's pension" shall not be less than  
1271 one-seventh of the member's final average salary. Upon the  
1272 surviving spouse's death, the pension shall terminate. Any  
1273 pension payable under this paragraph shall be subject to the  
1274 provisions of subsection (18).

1275 2. In the event the deceased member does not leave a  
1276 surviving spouse, or if the surviving spouse dies and the member  
1277 leaves an unmarried child or children under age 18, each such  
1278 child shall receive a pension of any equal share of the pension  
1279 to which the said deceased member's surviving spouse was  
1280 entitled or would have been entitled if he or she left a  
1281 surviving spouse. Upon any such child's adoption, marriage,  
1282 death, or attainment of age 18, the child's pension shall  
1283 terminate and it shall be apportioned to the pensions payable to  
1284 the said deceased member's remaining eligible children under the  
1285 age of 18. In no case shall the pension payable to any such  
1286 child exceed one-seventh of the deceased member's final average  
1287 salary, nor shall it be less than \$15 per month. A pension  
1288 payable under this paragraph shall be subject to the provisions

1289 of subsection (18).

1290 3. In the event the deceased member does not leave a  
 1291 surviving spouse or children eligible to receive a pension and  
 1292 the member leaves a parent or parents who the Board finds are  
 1293 dependent upon the member for at least 50 percent of his, her,  
 1294 or their financial support, each parent shall receive a pension  
 1295 of an equal share of the pension to which the member's surviving  
 1296 spouse would have been entitled if he or she had left a  
 1297 surviving spouse. Upon any such parent's remarriage or death,  
 1298 his or her pension shall terminate. Any pension payable under  
 1299 this paragraph shall be subject to the provisions of subsection  
 1300 (18).

1301 4. In the event the deceased member does not leave a  
 1302 surviving spouse, children, or parents to receive a pension,  
 1303 then the death benefit, if any, shall be paid to the estate of  
 1304 the deceased member. Any retirement income payments due after  
 1305 the death of a vested member may, in the discretion of the  
 1306 Board, be paid to the member's designated beneficiary or  
 1307 beneficiaries.

1308  
 1309 In any of the above cases, the Board, in its discretion, may  
 1310 direct that the actuarial value of the monthly benefit be paid  
 1311 as a lump sum.

1312 (b) Duty death.—In the event a member dies and the Board  
 1313 finds his or her death to be the natural and proximate result of  
 1314 a personal injury or disease arising out of and in the course of  
 1315 his or her actual performance of the duties as a police officer  
 1316 in the employ of the City, the following applicable pensions

1317 shall be paid:

1318       1. Effective October 1, 2003, the surviving spouse shall  
 1319 receive a pension equal to two-thirds of the member's highest 12  
 1320 consecutive months' salary or the current top step police  
 1321 officer pay, whichever is greater. Upon the surviving spouse's  
 1322 death, the pension shall terminate. Any pension payable under  
 1323 this paragraph shall be subject to the provisions of subsection  
 1324 (18).

1325       2. If, in addition to a surviving spouse, the deceased  
 1326 member leaves an unmarried child or children under age 18, each  
 1327 child shall receive a pension of \$150 per month. Upon any  
 1328 child's adoption, marriage, death, or attainment of age 18, the  
 1329 child's pension shall terminate. Any pension payable under this  
 1330 paragraph shall be subject to the provisions of subsection (18).

1331       3. In the event the deceased member does not leave a  
 1332 surviving spouse, or if the surviving spouse dies, and the  
 1333 member leaves an unmarried child or children under age 18, each  
 1334 such child shall receive a pension of an equal share of one-  
 1335 third of the deceased member's final average salary. Upon any  
 1336 such child's adoption, marriage, death, or attainment of age 18,  
 1337 the child's pension shall terminate and it shall be apportioned  
 1338 to the pensions payable to the deceased member's remaining  
 1339 eligible children under age 18. Any pension payable under this  
 1340 paragraph shall be subject to the provisions of subsection (18).

1341       4. Any pensions payable, under subparagraphs 2. and 3.  
 1342 above, to any child under age 18 shall be paid to his or her  
 1343 legal guardian.

1344       5. In the event the deceased member does not leave a



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1345 surviving spouse or children under age 18 eligible to receive a  
1346 pension provided for in subparagraph 1., subparagraph 2., or  
1347 subparagraph 3., and the member leaves a parent or parents who  
1348 the Board finds are dependent upon the member for at least 50  
1349 percent of his, her, or their financial support, then each  
1350 parent shall receive a pension of an equal share of one-third of  
1351 the deceased member's final average salary. Upon any such  
1352 parent's remarriage or death, his or her pension shall  
1353 terminate. Any pension payable under this paragraph shall be  
1354 subject to the provisions of subsection (18).

1355 6. In the event the deceased member does not leave a  
1356 surviving spouse, children, or parents eligible to receive a  
1357 pension, then the death benefit, if any, shall be paid to the  
1358 estate of the deceased member. Any retirement income payments  
1359 due after the death of a vested member may, in the discretion of  
1360 the Board, be paid to the member's designated beneficiary or  
1361 beneficiaries.

1362  
1363 In any of the above cases, the Board, in its discretion, may  
1364 direct that the actuarial value of the monthly benefit be paid  
1365 as a lump sum.

1366 (c) Death after retirement.—Upon the death of a retirant,  
1367 the following applicable pensions shall be paid, subject to the  
1368 provisions of subsection (18):

1369 1. The surviving spouse of the retirant shall receive a  
1370 pension of two-thirds of the retirant's pension, provided that  
1371 the retirant was receiving a pension under paragraph (9)(a).  
1372 Upon the surviving spouse's death, the pension shall terminate.

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1373           2. In the event the deceased retirant does not leave a  
1374 surviving spouse eligible to receive a pension, or if the  
1375 surviving spouse dies and he or she leaves an unmarried child or  
1376 children under age 18, each child shall receive a pension of an  
1377 equal share of two-thirds of the deceased retirant's pension.  
1378 Upon any child's adoption, marriage, death, or attainment of age  
1379 18, the child's pension shall terminate and it shall be  
1380 apportioned to the pensions payable to the deceased retirant's  
1381 remaining eligible children under age 18. In no case shall the  
1382 pension payable to any such child exceed 20 percent of the  
1383 deceased retirant's pension, or be less than \$15 per month.

1384           3. In the event the deceased retirant does not leave a  
1385 surviving spouse or children eligible to a pension provided for  
1386 in subparagraphs 1. and 2. above, and he or she leaves a parent  
1387 or parents who the Board finds are dependent upon the retirant  
1388 for at least 50 percent of his, her, or their financial support,  
1389 each parent shall receive a pension of an equal share of two-  
1390 thirds of the deceased retirant's pension. Upon any parent's  
1391 remarriage or death, his or her pension shall terminate.

1392           4. In the event the deceased member does not leave a  
1393 surviving spouse, children, or parents eligible to receive a  
1394 pension, then the death benefit, if any, shall be paid to the  
1395 estate of the deceased member. Any retirement income payments  
1396 due after the death of a vested member may, in the discretion of  
1397 the Board, be paid to the member's designated beneficiary or  
1398 beneficiaries.

1399  
1400 In any of the above cases, the Board, in its discretion, may

1401 direct that the actuarial value of the monthly benefit be paid  
 1402 as a lump sum.

1403 (18) Workers' compensation offset.—The pension benefits  
 1404 payable under this act shall not be offset by any workers'  
 1405 compensation benefits payable as a result of the disability or  
 1406 death of a member, except to the extent that the total of the  
 1407 pension benefit and workers' compensation benefit exceeds the  
 1408 member's average monthly wage.

1409 (19) Member's contributions; refunds.—

1410 (a) Member's contributions.—

1411 1. The member shall contribute 7 percent of his or her  
 1412 salary to the Fund. Effective the first full payroll period  
 1413 after January 1, 2005, the member shall contribute 9 percent of  
 1414 his or her salary to the Fund, which shall be deducted each pay  
 1415 period from the salary of each member in the Department.  
 1416 Effective the first full payroll period after January 1, 2006,  
 1417 the member shall contribute 10 percent of his or her salary to  
 1418 the Fund, which shall be deducted each pay period from the  
 1419 salary of each member in the Department. Effective the first  
 1420 full payroll period after January 1, 2007, the member shall  
 1421 contribute 11 percent of his or her salary to the Fund, which  
 1422 shall be deducted each pay period from the salary of each member  
 1423 in the Department. All amounts of member contributions that are  
 1424 deducted shall be immediately paid over to the Pension Fund. Any  
 1425 contribution amount over 7 percent is to be used to purchase  
 1426 eligibility for participation in the postretirement health  
 1427 insurance benefits.

1428 2. The City shall cause the contributions provided for in

1429 | subparagraph 1. to be deducted from the compensation of each  
 1430 | member on each payroll, for each pay period, so long as he or  
 1431 | she remains a member of the Fund. The member's contributions  
 1432 | provided for herein shall be made, notwithstanding that the  
 1433 | minimum compensation provided by law for any member is thereby  
 1434 | changed. Each member shall be deemed to consent and agree to the  
 1435 | deductions made and provided for herein. Payment of  
 1436 | compensation, less said deductions, shall be a full and complete  
 1437 | discharge and acquittance of all claims and demands whatsoever  
 1438 | for the services rendered by him or her during the period  
 1439 | covered by such payment, except as to benefits provided by this  
 1440 | act. When deducted, each of said contributions shall be paid  
 1441 | into the Fund and credited to the individual member from whose  
 1442 | compensation said deduction was made.

1443 |         3. In addition to the contribution deducted from the  
 1444 | compensation of a member, as hereinbefore provided, a member  
 1445 | shall deposit in the Fund, by a single contribution or by an  
 1446 | increased rate of contribution, as approved by the Board of  
 1447 | Trustees, the amount of previously withdrawn member  
 1448 | contributions not repaid to the Fund, together with regular  
 1449 | interest from the date of withdrawal to the date of repayment.  
 1450 | In no case shall any member be given credit for service rendered  
 1451 | prior to the date he withdrew his aggregate contributions until  
 1452 | he or she repays to the member's deposit account all amounts due  
 1453 | the account by such member.

1454 |         (b) Refund of member's contributions.—

1455 |         1. Should any member cease to be employed by the City as a  
 1456 | police officer and not be entitled to a pension payable from the

1457 Fund, upon application to and approval by the Board, he or she  
 1458 shall be paid the aggregate contributions standing to his or her  
 1459 credit in the Fund, without interest, less any benefits paid to  
 1460 him or her. In accordance with paragraph (2) (q), a member who  
 1461 has ceased to be employed by the City as a police officer may  
 1462 elect to voluntarily leave his or her contributions in the  
 1463 member's deposit account for a period of up to 5 years, pending  
 1464 the possibility of being rehired by the Department. If the  
 1465 member is not reemployed at the expiration of 5 years following  
 1466 the date the member ceased to be employed by the City as a  
 1467 police officer, all contributions remaining in the member's  
 1468 deposit account shall be refunded without interest.

1469 2. Upon the death of a member, if no pension becomes  
 1470 payable on account of his or her death, the aggregate  
 1471 contributions standing to the member's credit in the Fund at the  
 1472 time of death shall be paid to his or her designated  
 1473 beneficiary. If there be no such designated person surviving the  
 1474 member, his or her aggregate contributions shall be paid to his  
 1475 or her estate in accordance with subsection (17).

1476 3. Repayments ~~Payments~~ of refunds of a member's aggregate  
 1477 contributions, in accordance with subsection (6) and as provided  
 1478 in this paragraph, may be made in bimonthly ~~monthly~~ installments  
 1479 according to such rules and regulations as the Board of Trustees  
 1480 shall from time to time adopt.

1481 (20) Sources of revenue.—

1482 (a) Contributions credited to Fund.—The contributions to  
 1483 be credited to the Fund shall consist of, but shall not be  
 1484 limited to, the following sources of revenue:

1485           1. Taxes of insurance companies.—The moneys returned to  
 1486 the City as provided by chapter 185, Florida Statutes, shall be  
 1487 used to fund the share account benefit described in subsection  
 1488 (11). The City shall not opt out of participation in chapter  
 1489 185, Florida Statutes, or any similar statutory enactment unless  
 1490 exigent circumstances exist, such as the bankruptcy of the City  
 1491 or changes or amendments to the statute regarding extra  
 1492 benefits. If any statutory changes are made by the Legislature,  
 1493 the City and the Board shall renegotiate the impact of such  
 1494 changes, if necessary.

1495           2. City contribution.—The City shall contribute to the  
 1496 Fund annually an amount which, together with the contributions  
 1497 from the members and the amount derived from the premium tax  
 1498 provided in chapter 185, Florida Statutes, and other income  
 1499 sources as authorized by law, shall be sufficient to meet the  
 1500 normal cost of the Fund and to fund the actuarial deficiency  
 1501 over a period of not more than 40 years, provided that the net  
 1502 increase, if any, in unfunded liability of the Fund arising from  
 1503 significant amendments or other changes shall be amortized  
 1504 within 30 plan years.

1505           3. Member contributions.—As provided in subsection (19).

1506           4. Gifts, etc.—All gifts, bequests, and devises when  
 1507 donated to the Fund.

1508           5. Interest from deposits.—All accretions to the Fund by  
 1509 way of interest on bank deposits or otherwise.

1510           6. Other sources.—All other sources of income now or  
 1511 hereafter authorized by law for the augmentation of the Fund.

1512           (b) Actuarial valuations.—The Fund shall be actuarially

1513 | evaluated at least once in each 3-year period.

1514 |       (21) Investments.—

1515 |       (a) The Board shall have the power and authority to invest  
 1516 | and reinvest the moneys of the Fund and to hold, purchase, sell,  
 1517 | assign, transfer, and dispose of any securities and investments  
 1518 | held in the Fund, including the power and authority to employ  
 1519 | counseling or investment management services. The aim of the  
 1520 | investment policies shall be to preserve the integrity and  
 1521 | security of Fund principal, to maintain a balanced investment  
 1522 | portfolio, to maintain and enhance the value of the Fund  
 1523 | principal, and to secure the maximum total return on investments  
 1524 | that is consonant with safety of principal, provided that such  
 1525 | investments and reinvestments shall be limited only by the  
 1526 | investments permitted by the investment policy guidelines  
 1527 | adopted by the Board in accordance with Florida law.  
 1528 | Notwithstanding the foregoing, investments in foreign  
 1529 | investments are limited in accordance with section  
 1530 | 185.06(1)(b)4., Florida Statutes.

1531 |       1. The Board members must discharge these duties with  
 1532 | respect to the Plan solely in the interest of the participants  
 1533 | and beneficiaries and:

1534 |       ~~a.1.~~ For the exclusive purpose of providing benefits to  
 1535 | participants and their beneficiaries and defraying reasonable  
 1536 | expenses of administering the Plan;

1537 |       ~~b.2.~~ With the care, skill, prudence, and diligence under  
 1538 | the circumstances then prevailing that a prudent person acting  
 1539 | in a like capacity and familiar with such matters would use in  
 1540 | the conduct of an enterprise of a like character and with like

1541 aims; and

1542 ~~c.3.~~ By diversifying the investments of the Plan so as to  
1543 minimize the risk of large losses, unless under the  
1544 circumstances it is clearly prudent not to do so.

1545 2. Notwithstanding any other provision of this subsection  
1546 and as provided in section 215.473, Florida Statutes, the Board  
1547 must identify and publicly report any direct or indirect  
1548 holdings it may have in any scrutinized company, as defined in  
1549 section 215.473, Florida Statutes. Beginning January 1, 2010,  
1550 the Board must proceed to sell, redeem, divest, or withdraw all  
1551 publicly traded securities it may have directly in any  
1552 scrutinized company. The divestiture of any such security must  
1553 be completed by September 10, 2010. The Board and its named  
1554 officers or investment advisors may not be deemed to have  
1555 breached their fiduciary duty in any action taken to dispose of  
1556 any such security, and the Board shall have satisfactorily  
1557 discharged the fiduciary duties of loyalty, prudence, and sole  
1558 and exclusive benefit to the participants of the Pension Fund  
1559 and their beneficiaries if the Board's actions are consistent  
1560 with the duties imposed by section 215.473, Florida Statutes, as  
1561 provided for in section 185.06(7), Florida Statutes, and the  
1562 manner of the disposition, if any, is reasonable as to the means  
1563 chosen. For purposes of determining which companies are  
1564 scrutinized companies, the Board may utilize the list of  
1565 scrutinized companies as developed by the State Board of  
1566 Administration. No person may bring any civil, criminal, or  
1567 administrative action against the Board of Trustees or any  
1568 employee, officer, director, or advisor of such Pension Fund



1569 based upon the divestiture of any security pursuant to this  
 1570 subparagraph.

1571 (b) Professional counsel.—Board shall be required to  
 1572 engage the services of professional investment counsel to assist  
 1573 and advise the Trustees in the performance of their duties.

1574 (c) Restricted use of assets.—The assets of the Police  
 1575 Pension Fund shall be used only for the payment of benefits and  
 1576 other disbursements authorized by this act and shall be used for  
 1577 no other purpose.

1578 (d) Performance evaluation and manager selection.—At least  
 1579 once every 3 years, the Board of Trustees shall retain an  
 1580 independent consultant professionally qualified to evaluate the  
 1581 performance of its professional money manager or investment  
 1582 counsel. The independent consultant shall make recommendations  
 1583 to the Board of Trustees regarding the selection of money  
 1584 managers for the next investment term. These recommendations  
 1585 shall be considered by the Board of Trustees at its next  
 1586 regularly scheduled meeting. ~~The date, time, place, and subject~~  
 1587 ~~of this meeting shall be advertised in a newspaper of general~~  
 1588 ~~circulation in the municipality at least 10 days prior to the~~  
 1589 ~~date of the hearing.~~

1590 (e) Administrative expenses.—The administrative expenses  
 1591 of the Fund shall be paid by the Fund.

1592 (22) Existing benefits continued.—This act, and any  
 1593 amendments hereto, shall not be construed to increase or  
 1594 decrease the benefits payable to, or on account of, any member  
 1595 who retired or died prior to October 1, 1987.

1596 (23) Assignments prohibited; voluntary withholding.—

1597        (a) The pensions or other benefits accrued or accruing to  
 1598 any person under the provisions of this act and the accumulated  
 1599 contributions and the cash securities in the Fund created under  
 1600 this act shall not be subject to execution or attachment or to  
 1601 any legal process whatsoever and shall be unassignable. However,  
 1602 pursuant to a court support order, the trustees may direct that  
 1603 retirement benefits be paid for alimony or child support in  
 1604 accordance with rules and regulations adopted by the Board of  
 1605 Trustees.

1606        (b) Upon written request by the retiree, the Board may  
 1607 authorize the Plan administrator to withhold from the monthly  
 1608 retirement payment funds necessary to:

- 1609            1. Pay for benefits being received through the City;
- 1610            2. Pay the certified bargaining agent; or
- 1611            3. Pay for premiums for accident, health, and long-term  
 1612 care insurance for the retiree's spouse and dependents.

1613  
 1614 A retirement plan does not incur liability for participation in  
 1615 this permissive program if the Board's actions are taken in good  
 1616 faith pursuant to section 185.05(6), Florida Statutes.

1617        (24) Subrogation rights; loss of pension rights.—

1618        (a) In the event a person becomes entitled to a pension or  
 1619 other benefits payable from the Fund as a result of an accident  
 1620 or injury caused by the act of a third party, the City shall be  
 1621 subrogated to the rights of the said person against such third  
 1622 person to the extent of the benefits which the City pays or  
 1623 becomes liable to pay hereunder.

1624        (b) No person shall be entitled to a pension under this

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1625 act who is convicted of a specified offense as provided in  
1626 section 112.3173, Florida Statutes.

1627 (25) Ordinances applicable.—All ordinances of the City  
1628 applicable to chapter 185, Florida Statutes, are hereby made  
1629 applicable to this act with equal force and effect. No proposed  
1630 change or amendment to this act shall be adopted without the  
1631 approval required by section 185.35(2), Florida Statutes.

1632 (26) Review procedures.—

1633 (a) The applicant for benefits under this act may, within  
1634 20 days after being informed of the denial of his or her request  
1635 for pension benefits, appeal said denial by filing a reply to  
1636 the proposed order with the pension's coordinator. If no appeal  
1637 is filed within the time period specified, then the proposed  
1638 order shall be final.

1639 (b) The Board of Trustees shall hold a hearing within 45  
1640 days after the receipt of the appeal. Written notice of said  
1641 hearing shall be sent by certified mail to the applicant 10 days  
1642 prior to the hearing, at the address listed on the application.

1643 (c) The procedures at the hearing shall be as follows:

1644 1. All parties shall have an opportunity to respond, to  
1645 present physical and testimonial evidence and argument on all  
1646 issues involved, to conduct cross-examination, to submit  
1647 rebuttal evidence, and to be represented by counsel. Medical  
1648 reports and depositions may be accepted in lieu of live  
1649 testimony, at the Board's discretion.

1650 2. All witnesses shall be sworn.

1651 3. The applicant and the Board shall have an opportunity  
1652 to question all witnesses.

1653 4. Formal rules of evidence and formal rules of civil  
1654 procedure shall not apply. The proceedings shall comply with the  
1655 essential requirements of due process and law.

1656 5. The record in a case governed by this subsection shall  
1657 consist only of:

1658 a. A tape recording of the hearing, to be taped and  
1659 maintained as part of the official files of the Board of  
1660 Trustees by the pension's secretary.

1661 b. Evidence received or considered.

1662 c. All notices, pleadings, motions, and intermediate  
1663 rulings.

1664 d. Any decisions, opinions, proposed or recommended  
1665 orders, or reports by the Board of Trustees.

1666 (d) Within 5 days after the hearing, the Board shall take  
1667 one of the following actions:

1668 1. Grant the pension benefits by overturning the proposed  
1669 order by majority vote.

1670 2. Deny the benefits and approve the proposed order as a  
1671 final order, after making any changes in the order that the  
1672 Board feels is necessary.

1673 (e) Findings of fact by the Board shall be based on  
1674 competent, substantial evidence on the record.

1675 (f) Within 20 calendar days after rendering its order, the  
1676 Board of Trustees shall send by certified mail a copy of said  
1677 order to the applicant.

1678 (g) The applicant may seek review of the order of the  
1679 Board of Trustees by filing a petition for writ of certiorari  
1680 with the circuit court within 30 days.

1681 (27) Lump sum payment of small retirement income.—  
 1682 Notwithstanding any provision of the Fund to the contrary, if  
 1683 the monthly retirement income payable to any person entitled to  
 1684 benefits hereunder is less than \$30 or if the single sum value  
 1685 of the accrued retirement income is less than \$1,000 ~~\$5,000~~ as  
 1686 of the date of retirement or termination of service, whichever  
 1687 is applicable, the Board of Trustees, in the exercise of its  
 1688 discretion, may specify that the actuarial equivalent of such  
 1689 retirement income be paid in lump sum.

1690 (28) Pickup of member contributions.—Effective the first  
 1691 day of the first full payroll period of the first calendar  
 1692 quarter following receipt of a favorable determination letter  
 1693 from the Internal Revenue Service, the City shall pick up the  
 1694 member contribution required by this section. The contributions  
 1695 so picked up shall be treated as employer contributions in  
 1696 determining tax treatment under the United States Internal  
 1697 Revenue Code. The City shall pick up the member contributions  
 1698 from funds established and available for salaries, which funds  
 1699 would otherwise have been designated as member contributions and  
 1700 paid to the Fund. Member contributions picked up by the City  
 1701 pursuant to this subsection shall be treated for purposes of  
 1702 making a refund of members' contributions, and for all other  
 1703 purposes of this and other laws, in the same manner and to the  
 1704 same extent as member contributions made prior to the effective  
 1705 date of this section. The intent of this section is to comply  
 1706 with s. 414(H) (2) of the Internal Revenue Code.

1707 (29) Internal Revenue Code limits.—

1708 (a) In no event may a member's annual benefit exceed

1709 \$160,000 (adjusted for cost of living in accordance with s.  
 1710 415(d) of the Internal Revenue Code).

1711 (b) If a member has less than 10 years of service with the  
 1712 City, the applicable limitation in paragraph (a) shall be  
 1713 reduced by multiplying such limitation by a fraction, not to  
 1714 exceed 1. The numerator of such fraction shall be the number of  
 1715 years, or part thereof, of service with the City; the  
 1716 denominator shall be 10 years.

1717 (c) For purposes of this subsection, "annual benefit"  
 1718 means a benefit payable annually in the form of a straight life  
 1719 annuity with no ancillary incidental benefits and with no member  
 1720 or rollover contributions. To the extent that ancillary benefits  
 1721 are provided, the limits set forth in paragraph (a) shall be  
 1722 reduced actuarially, using an interest rate assumption equal to  
 1723 the greater of 5 percent or the rate being used for actuarial  
 1724 equivalence, to reflect such ancillary benefits.

1725 (d) If distribution of retirement benefits begins before  
 1726 age 62, the dollar limitation as described in paragraph (a)  
 1727 shall be reduced, using an interest rate assumption equal to the  
 1728 greater of 5 percent or the interest rate used for actuarial  
 1729 equivalence; however, retirement benefits shall not be reduced  
 1730 below \$75,000 if payment of benefits begins at or after age 55  
 1731 and not below the actuarial equivalent of \$75,000 if payment of  
 1732 benefits begins before age 55. For a member with 15 or more  
 1733 years of service with the City, the reductions described above  
 1734 shall not reduce such member's benefit below \$50,000 (adjusted  
 1735 for cost of living in accordance with s. 415(d) of the Internal  
 1736 Revenue Code, but only for the year in which such adjustment is

1737 effective). If retirement benefits begin after age 65, the  
 1738 dollar limitation of paragraph (a) shall be increased  
 1739 actuarially by using an interest assumption equal to the lesser  
 1740 of 5 percent or the rate used for actuarial equivalence.

1741 (e) Compensation in excess of limitations set forth in s.  
 1742 401(a)(17) of the Internal Revenue Code shall be disregarded.  
 1743 The limitation on compensation for an eligible employee shall  
 1744 not be less than the amount that was allowed to be taken into  
 1745 account hereunder as in effect on July 1, 1993. "Eligible  
 1746 employee" is an individual who was a member before the first  
 1747 plan year beginning after December 31, 1995.

1748 (30) Required distributions.—

1749 (a) In accordance with s. 401(a)(9) of the Internal  
 1750 Revenue Code, all benefits under this plan shall be distributed,  
 1751 beginning not later than the required beginning date set forth  
 1752 below, over a period not extending beyond the life expectancy of  
 1753 the police officers or the life expectancy of the police officer  
 1754 and a beneficiary designated in accordance with paragraph  
 1755 (9)(e).

1756 (b) Any and all benefit payments shall begin by the later  
 1757 of:

1758 1. April 1 of the calendar year following the calendar  
 1759 year of the member's retirement date; or

1760 2. April 1 of the calendar year following the calendar  
 1761 year in which the member attains age 70-1/2.

1762 (c) If an employee dies before his or her entire vested  
 1763 interest has been distributed to him or her, the remaining  
 1764 portion of such interest shall be distributed at least as

1765 rapidly as provided for under subsection (17).

1766 (31)(a) Rollovers from qualified plans.—A member may roll  
 1767 over all or a part of his or her interest in another qualified  
 1768 plan to the Fund, provided all of the following requirements are  
 1769 met:

1770 1. Some or all of the amount distributed from the other  
 1771 plan is rolled over to this plan no later than the 60th day  
 1772 after distribution was made from the Plan or, if distributions  
 1773 are made in installments, no later than the 60th day after the  
 1774 last distribution was made.

1775 2. The amount rolled over to this Fund does not include  
 1776 any amount contributed by the member to the Plan on a post tax  
 1777 basis.

1778 3. The rollover is made in cash.

1779 4. The member certifies that the distribution is eligible  
 1780 for a rollover.

1781 5. Any amount which the Trustees accept as a rollover to  
 1782 this Fund shall, along with any earnings allocated to them, be  
 1783 fully vested at all times.

1784  
 1785 A rollover may also be made to this Plan from an individual  
 1786 retirement account qualified under s. 408 of the Internal  
 1787 Revenue Code when the individual retirement account was merely  
 1788 used as a conduit for funds from another qualified plan and the  
 1789 rollover is made in accordance with the rules provided in  
 1790 subparagraphs 1.-5. Amounts rolled over may be segregated from  
 1791 other Fund assets. The trustees shall separately account for  
 1792 gains, losses, and administrative expenses of these rollovers as



1793 provided for in subsections (11) and (13). In addition, the Fund  
 1794 may accept the direct transfer of a member's benefits from  
 1795 another qualified retirement plan or an Internal Revenue Code  
 1796 section 457 plan. The Fund shall account for direct transfers in  
 1797 the same manner as a rollover and shall obtain certification  
 1798 from the member that the amounts are eligible for a rollover or  
 1799 direct transfer to this Fund.

1800 (b) Transfer of accumulated leave.—

1801 1. Members who are eligible to receive a lump-sum payment  
 1802 for accumulated leave payable upon separation and who have funds  
 1803 remaining after the contributions to the health savings account  
 1804 as required by the collective bargaining agreement shall have  
 1805 the remaining leave payment transferred to the Fund up to the  
 1806 amount permitted by law. Any additional amounts shall be paid  
 1807 directly to the member. Members on whose behalf leave has been  
 1808 transferred shall maintain the entire amount of the transferred  
 1809 leave balance in the DROP or Share Account.

1810 2. If a member on whose behalf the City makes a  
 1811 transferred leave balance to the Plan dies after retirement or  
 1812 other separation, then any person who would have received a  
 1813 death benefit had the member died in service immediately prior  
 1814 to the date of retirement or other separation shall be entitled  
 1815 to receive an amount equal to the transferred leave balance in a  
 1816 lump sum. In the case of a surviving spouse or former spouse, an  
 1817 election may be made to transfer the leave balance to an  
 1818 eligible retirement plan in lieu of the lump sum payment.  
 1819 Failure to make such an election by the surviving spouse or  
 1820 former spouse within 60 days after the member's death shall be

1821 deemed an election to receive the lump sum payment.

1822 3. The Board, by rule, shall prescribe the method for  
1823 implementing the provisions of this paragraph.

1824 4. Amounts transferred under this section shall remain  
1825 invested in the Fund for a period of not less than 1 year.

1826 (32) Rollover distributions.—

1827 (a) This subsection applies to distributions made on or  
1828 after January 1, 1993. Notwithstanding any provision of the Plan  
1829 to the contrary that would otherwise limit a distributee's  
1830 election under this subsection, a distributee may elect, at the  
1831 time and in the manner prescribed by the Board of Trustees, to  
1832 have any portion of an eligible rollover distribution paid  
1833 directly to an eligible retirement plan specified by the  
1834 distributee in a direct rollover.

1835 (b) Definitions.—

1836 1. "Eligible rollover distribution" is any distribution of  
1837 all or any portion of the balance to the credit of the  
1838 distributee, except that an eligible rollover does not include  
1839 any distribution that is one of a series of substantially equal  
1840 periodic payments (not less frequently than annually) made for  
1841 the life (or life expectancy) of the distributee or the joint  
1842 lives (or joint life expectancies) of the distributee and the  
1843 distributee's designated beneficiary, or for a specified period  
1844 of 10 years or more; any distribution to the extent such  
1845 distribution is required under s. 401(a)(9) of the Internal  
1846 Revenue Code; and the portion of any distribution that is not  
1847 includable in gross income.

1848 2. "Eligible retirement plan" is an individual retirement

1849 account described in s. 408(a) of the Internal Revenue Code, an  
 1850 individual retirement annuity described in s. 408(b) of the  
 1851 Internal Revenue Code, an annuity plan described in s. 403(a) of  
 1852 the Internal Revenue Code, or a qualified trust described in s.  
 1853 401(a) of the Internal Revenue Code that accepts the  
 1854 distributee's eligible rollover distribution. However, in the  
 1855 case of an eligible rollover distribution to the surviving  
 1856 spouse, an "eligible retirement plan" is an individual  
 1857 retirement account or individual retirement annuity.

1858 3. "Distributee" includes an employee or former employee.  
 1859 In addition, the employee's or former employee's surviving  
 1860 spouse and the employee's or former employee's spouse or former  
 1861 spouse who is entitled to payment for alimony and child support  
 1862 under a domestic relations order determined to be qualified by  
 1863 this Fund are distributees with regard to the interest of the  
 1864 spouse or former spouse.

1865 4. "Direct rollover" is a payment by the Plan to the  
 1866 eligible retirement plan specified by the distributee.

1867 (33) Miscellaneous requirements.—

1868 (a) No benefit of any kind shall be payable from the  
 1869 assets of the Pension Fund unless specifically provided for in  
 1870 this act; however, the Board of Trustees, with the approval of  
 1871 the City, may grant ad hoc benefits after a public hearing and  
 1872 acceptance by the state of an actuarial impact statement  
 1873 submitted pursuant to part VII of chapter 112, Florida Statutes.

1874 (b) The City may not offset any part of its required  
 1875 annual contribution by the Fund's assets except as determined in  
 1876 an actuarial valuation, the report for which is determined to be

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1877 state accepted pursuant to part VII of chapter 112, Florida  
 1878 Statutes.

1879 (c) All provisions of this act and operations of the  
 1880 Pension Fund shall be carried out in compliance with part VII of  
 1881 chapter 112, Florida Statutes.

1882 (d)1. It is unlawful for a person to willfully and  
 1883 knowingly make, or cause to be made, or to assist, conspire  
 1884 with, or urge another to make, or cause to be made, any false,  
 1885 fraudulent, or misleading oral or written statement or to  
 1886 withhold or conceal material information to obtain any benefit  
 1887 under this Plan.

1888 2.a. A person who violates subparagraph 1. commits a  
 1889 misdemeanor of the first degree, punishable as provided in  
 1890 section 775.082 or section 775.083, Florida Statutes.

1891 b. In addition to any applicable criminal penalty, upon  
 1892 conviction for a violation described in subparagraph 1., a  
 1893 participant or beneficiary of this Plan may, in the discretion  
 1894 of the Board of Trustees, be required to forfeit the right to  
 1895 receive any or all benefits to which the person would otherwise  
 1896 be entitled under this Plan. For purposes of this sub-  
 1897 subparagraph, "conviction" means a determination of guilt that  
 1898 is the result of a plea or trial, regardless of whether  
 1899 adjudication is withheld.

1900 (34) Actuarial assumptions.—The following actuarial  
 1901 assumptions shall be used for all purposes in connection with  
 1902 this Fund, effective October 1, 1999:

1903 (a) The assumed investment rate of return shall be 8.25  
 1904 percent.

1905 (b) The period for amortizing current, future, and past  
 1906 actuarial gains or losses shall be 20 years.

1907  
 1908 The consequences of the change in assumptions in paragraphs (a)  
 1909 and (b) shall first take effect during the October 1, 1999-  
 1910 September 30, 2000, fiscal year of the City of West Palm Beach.  
 1911 To the extent that effective dates or legislative delays might  
 1912 influence the direct application to the October 1, 1999-  
 1913 September 30, 2000, fiscal year of the actuarial cost estimate  
 1914 dated March 24, 2000, there shall be a minimum contribution  
 1915 reserve established by the Pension Fund for the City of West  
 1916 Palm Beach. The reserve shall be credited with any amounts  
 1917 contributed to the Pension Fund by the City of West Palm Beach  
 1918 during the October 1, 1999-September 30, 2000, fiscal year in  
 1919 excess of \$1,462,965. This amount has been determined by  
 1920 combining the contribution requirement from the September 30,  
 1921 1998, actuarial valuation report dated May 7, 1999, with the  
 1922 subsequent actuarial cost estimate dated March 24, 2000, both of  
 1923 which were prepared by the Fund's actuary.

1924 (35) Other police officer or military service.-

1925 (a) Prior police officer or military service.-Unless  
 1926 otherwise prohibited by law, the years, or fractional parts of  
 1927 years, ~~that a member previously served as a police officer with~~  
 1928 ~~the City during a period of employment and for which accumulated~~  
 1929 ~~contributions were withdrawn from the fund, or the years, or~~  
 1930 ~~fractional parts of years,~~ that a member served as a police  
 1931 officer for ~~this or~~ any other municipal, county, state, or  
 1932 federal law enforcement office or any time served in the

1933 military service of the Armed Forces of the United States shall  
 1934 be added to the years of credited service, provided that the  
 1935 member contributes to the fund the sum that would have been  
 1936 contributed, based on the member's salary and the employee  
 1937 contribution rate in effect at the time that the credited  
 1938 service is requested, had the member been a member of this  
 1939 system for the years, or fractional parts of years, for which  
 1940 the credit is requested, plus the amount actuarially determined,  
 1941 such that the crediting of service does not result in any cost  
 1942 to the fund, plus payment of costs for all professional services  
 1943 rendered to the Board in connection with the purchase of years  
 1944 of credited service.

1945         1. Payment by the member of the required amount may be  
 1946 made within 6 months after the request for credit and in one  
 1947 lump sum payment, or the member may buy back this time over a  
 1948 period equal to the length of time being purchased or 5 years,  
 1949 whichever is greater, at an interest rate which is equal to the  
 1950 Fund's actuarial assumption. A member may request to purchase  
 1951 some or all years of service.

1952         2. The credit purchased under this subsection shall count  
 1953 for all purposes, except vesting.

1954         3. In no event, however, may credited service be purchased  
 1955 pursuant to this section for prior service with any other  
 1956 municipal, county, state, or federal law enforcement office, if  
 1957 such prior service forms or will form the basis of a retirement  
 1958 benefit or pension from another retirement system or plan.

1959         4. In the event that a member who is in the process of  
 1960 purchasing service suffers a disability and is awarded a benefit

1961 from the plan, the member shall not be required to complete the  
 1962 buyback. However, contributions made prior to the date the  
 1963 disability payment begins will be retained by the Fund.

1964 5. If a member who has either completed the purchase of  
 1965 service or is in the process of purchasing service terminates  
 1966 before vesting, the member's contributions shall be refunded,  
 1967 including the buyback contributions.

1968 6. A request to purchase service may be made at any time  
 1969 during the course of employment; however, the buyback is a one-  
 1970 time opportunity.

1971 7. A member who previously served as a police officer with  
 1972 the City during a period of employment and for which accumulated  
 1973 contributions were withdrawn from the Fund may recontribute such  
 1974 withdrawn contributions plus interest from the date of  
 1975 withdrawal to the date of repayment in accordance with  
 1976 subsection (6).

1977 (b) Intervening military service.—In determining the  
 1978 creditable service of any police officer, credit for up to 5  
 1979 years of the time spent in the military service of the Armed  
 1980 Forces of the United States shall be added to the years of  
 1981 actual service without employee contribution, if:

1982 1. The police officer is in the active employ of the  
 1983 municipality prior to such service and leaves a position, other  
 1984 than a temporary position, for the purpose of voluntary or  
 1985 involuntary service in the Armed Forces of the United States.

1986 2. The police officer is entitled to reemployment under  
 1987 the provisions of the federal Uniformed Services Employment and  
 1988 Reemployment Rights Act.

1989           3. The police officer returns to his or her employment as  
 1990 a police officer of the municipality within 1 year after the  
 1991 date of his or her release from such active service, except  
 1992 that, effective January 1, 2007, members who die or become  
 1993 disabled while on active duty military service shall be entitled  
 1994 to the rights of this section even though such member was not  
 1995 reemployed by the City. A member who dies or becomes disabled  
 1996 while on active duty military service shall be treated as though  
 1997 he or she were reemployed the day before he or she became  
 1998 disabled or died, were credited with the service he or she would  
 1999 have been entitled to under this section, and then either died a  
 2000 nonduty death while employed or became disabled from a nonduty  
 2001 disability.

2002           (36) Reemployment after retirement.—

2003           (a) Reemployment by public or private employer.—Any  
 2004 retiree who is retired under this Plan, except for disability  
 2005 retirement as previously provided for, may be reemployed by any  
 2006 public or private employer, except the City, and may receive  
 2007 compensation from that employment without limiting or  
 2008 restricting in any way the retirement benefits payable under  
 2009 this Plan. Reemployment by the City on or after August 1, 2008,  
 2010 shall be subject to the limitations set forth in this section.

2011           (b) Reemployment after normal retirement outside Police  
 2012 Department.—Any retiree who is retired under normal retirement  
 2013 pursuant to this Plan and who is reemployed by the City after  
 2014 that retirement shall, upon being reemployed, continue receipt  
 2015 of benefits, provided the retiree is not hired into the Police  
 2016 Department. Upon reemployment, the retiree is eligible to



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2017 participate in the plan offered to new employees of that  
2018 department, and the retiree shall be deemed a new employee  
2019 subject to any vesting and contribution requirements of that  
2020 plan. The benefit paid under this Plan shall not be changed in  
2021 any way.

2022 (c) Reemployment after normal retirement in Police  
2023 Department.—Any retiree who is retired after normal retirement  
2024 pursuant to this Plan shall not be reemployed by the Police  
2025 Department as a police officer or in any position that  
2026 supervises police officers. The pension of a retiree who is  
2027 reemployed by the Police Department as a police officer or in  
2028 any position that supervises police officers shall stop until  
2029 the member terminates employment. However, a retiree who is  
2030 reemployed by the Police Department neither as a police officer  
2031 nor in any position that supervises police officers is eligible  
2032 to participate in the plan offered to new employees of that  
2033 employee classification, and the retiree shall be deemed a new  
2034 employee subject to any vesting and contribution requirements of  
2035 that plan. The benefit paid under this Plan shall not be changed  
2036 in any way.

2037 (d) Reemployment of terminated vested persons.—Reemployed  
2038 terminated vested persons shall not be subject to the provisions  
2039 of this section until such time as they begin to actually  
2040 receive benefits but shall be subject to paragraph (9)(c). Upon  
2041 receipt of benefits, terminated vested persons shall be treated  
2042 as normal retirees for purposes of applying the provisions of  
2043 this section.

2044 (e) DROP participants.—Members or retirees who were in the

2045 deferred retirement option plan shall have the options provided  
 2046 for in this section for reemployment after termination of  
 2047 employment as if the retiree were a retiree under normal  
 2048 retirement.

2049 (37) Termination of the Plan.—Upon termination of the Plan  
 2050 by the City for any reason, or because of a transfer, merger, or  
 2051 consolidation of governmental units, services, or functions as  
 2052 provided in chapter 121, Florida Statutes, or upon written  
 2053 notice to the Board by the City that contributions under the  
 2054 Plan are being permanently discontinued, the rights of all  
 2055 employees to benefits accrued to the date of such termination or  
 2056 discontinuance and the amounts credited to the employees'  
 2057 accounts are nonforfeitable. The Fund shall be distributed in  
 2058 accordance with the following procedures:

2059 (a) The Board shall determine the date of distribution and  
 2060 the asset value required to fund all the nonforfeitable benefits  
 2061 after taking into account the expenses of such distribution. The  
 2062 Board shall inform the City if additional assets are required,  
 2063 in which event the City shall continue to financially support  
 2064 the Plan until all nonforfeitable benefits have been funded.

2065 (b) The Board shall determine the method of distribution  
 2066 of the asset value and whether distribution shall be by payment  
 2067 in cash, by the maintenance of another or substituted trust  
 2068 fund, by the purchase of insured annuities, or otherwise for  
 2069 each police officer entitled to benefits under the Plan, as  
 2070 specified in paragraph (c).

2071 (c) The Board shall distribute the asset value as of the  
 2072 date of termination in the manner set forth in this subsection

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2073 on the basis that the amount required to provide any given  
2074 retirement income is the actuarially computed single-sum value  
2075 of such retirement income, except that if the method of  
2076 distribution determined under paragraph (b) involves the  
2077 purchase of an insured annuity, the amount required to provide  
2078 the given retirement income is the single premium payable for  
2079 such annuity. The actuarial single-sum value may not be less  
2080 than the employee's accumulated contributions to the Plan, with  
2081 interest if provided by the Plan, less the value of any Plan  
2082 benefits previously paid to the employee.

2083 (d) If there is asset value remaining after the full  
2084 distribution specified in paragraph (c), and after payment of  
2085 any expenses incurred with such distribution, such excess shall  
2086 be returned to the City, less the return to the state of the  
2087 state's contributions, provided that if the excess is less than  
2088 the total contributions made by the City and the state to date  
2089 of termination of the Plan, such excess shall be divided  
2090 proportionately to the total contributions made by the City and  
2091 the state.

2092 (e) The Board shall distribute, in accordance with the  
2093 manner of distribution determined under paragraph (b), the  
2094 amounts determined under paragraph (c).

2095 Section 2. This act shall take effect upon becoming a law.