

1 A bill to be entitled
 2 An act relating to the City of West Palm Beach, Palm Beach
 3 County; amending chapter 24981 (1947), Laws of Florida, as
 4 amended; revising definitions relating to the West Palm
 5 Beach Firefighters Pension Fund; revising terms of the
 6 board of trustees; providing that an authorized fiduciary
 7 may sign drafts for fund disbursements; providing
 8 additional requirements for the board relating to certain
 9 holdings; deleting certain requirements relating to
 10 service pension for normal retirement, including optional
 11 transition benefits for certain employees; providing that
 12 a retired member may change certain designation of joint
 13 annuitant or beneficiary relating to payment of benefits;
 14 providing that members who are disabled due to specified
 15 military service are not excluded from disability
 16 pensions; providing that the board may authorize
 17 withholdings from retirement pay under certain
 18 circumstances; providing that a firefighter for a federal
 19 fire department constitutes prior firefighter service;
 20 providing for termination of the fund and distribution of
 21 assets; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 17 of chapter 24981 (1947), Laws of
 26 Florida, as amended, is amended to read:

27 Section 17. West Palm Beach Firefighters Pension Fund.—
 28 (1) Creation of fund.—There is hereby created a special

29 fund for the Fire Department of the City of West Palm Beach to
30 be known as the West Palm Beach Firefighters Pension Fund. All
31 assets of every description held in the name of the West Palm
32 Beach Firemen's Relief and Pension Fund and in the name of the
33 West Palm Beach Firefighters Pension Fund have been and shall
34 continue to be combined.

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

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

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

46 3. "Board of Trustees" or "Board" means the Board of
47 Trustees provided for in this act.

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

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

50 6. "Enrolled actuary" means an actuary who is enrolled
51 under Subtitle C of Title III of the Employee Retirement Income
52 Security Act of 1974 and who is a member of the Society of
53 Actuaries or the American Academy of Actuaries.

54 7. "Final average salary" means the average of the monthly
55 salary paid a member in the 2 best years of employment, paid in
56 and prior to the 23rd year of credited service. No active

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57 nonDROP member shall have any salary amounts paid prior to
58 October 1, 2000, used in the calculation of final average
59 salary. Those members whose final average salary would include
60 salary amounts paid prior to October 1, 2000, shall use salary
61 paid during the period from October 1, 2000, through September
62 30, 2001, to replace any salary amounts paid prior to October 1,
63 2000. The replacement salary from October 1, 2000, through
64 September 30, 2001, may range anywhere between 2 weeks and 104
65 weeks, but shall only be enough salary as is sufficient to
66 replace the salary paid prior to October 1, 2000. The
67 replacement salary amounts from October 1, 2000, to September
68 30, 2001, shall be prorated based upon an annual salary.

69 8. "Firefighter" means any person employed in the
70 Department who is certified as a firefighter as a condition of
71 employment in accordance with the provisions of section 633.35,
72 Florida Statutes, whose duty it is to extinguish fires and
73 protect life and property. The term includes all certified,
74 supervisory, and command personnel whose duties include, in
75 whole or in part, the supervision, training, guidance, and
76 management responsibilities of full-time firefighters, part-time
77 firefighters, or auxiliary firefighters but does not include
78 part-time firefighters or auxiliary firefighters whose duty it
79 is to extinguish fires and protect life and property.

80 9. "Fund" or "Pension Fund" means the West Palm Beach
81 Firefighters Pension Fund or the West Palm Beach Firemen's
82 Relief and Pension Fund, as applicable.

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

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

88 12. "Qualified health professional" means a person duly
89 and regularly engaged in the practice of his or her profession
90 who holds a professional degree from a university or college and
91 has had special professional training or skill regarding the
92 physical or mental condition, disability, or lack thereof, upon
93 which he or she is to present evidence to the Board.

94 13. "Qualified public depository" means any bank or
95 savings association organized and existing under the laws of
96 Florida and any bank or savings association organized under the
97 laws of the United States that has its principal place of
98 business in Florida, or has a branch office which is authorized
99 under the laws of Florida or the United States to receive
100 deposits in Florida, that meets all of the requirements of
101 chapter 280, Florida Statutes, and that has been designated by
102 the Treasurer of the State of Florida as a qualified public
103 depository.

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

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

108 16. "Salary" means:

109 a. On and after October 1, 2001, "salary," for the purpose
110 of pension contributions and benefit calculations, shall mean
111 payments made to a firefighter by the City for: regular hours
112 worked; step-up pay; longevity pay; all authorized leave time,

113 | which includes compensatory time used, earned personal leave
 114 | used, emergency leave used, sick leave used, sick leave pay bank
 115 | used, vacation time used, holiday time used, emergency leave,
 116 | bereavement leave, and administrative leave; certification pay,
 117 | which includes paramedic, hazardous material technician, special
 118 | operations, dive rescue, fire service instructor, fire
 119 | inspector, and SWAT certification pay; fire inspector standby
 120 | pay; educational bonus incentive; pay received from the City
 121 | during military training; and sick leave conversion when such
 122 | leave is converted during the course of active employment. The
 123 | definition of "salary" specifically excludes any lump sum
 124 | payments for accumulated leave such as that received upon final
 125 | payoff. Employees who are specifically excluded from bargaining
 126 | unit recognition as set forth in Article 2, but who are members
 127 | of the West Palm Beach Firefighters Pension Fund, shall continue
 128 | to make contributions on management incentive benefits. This
 129 | definition of compensation shall not include any duty employment
 130 | that is performed for other than the City of West Palm Beach per
 131 | Article 31, Salary Plan.

132 | b. On and after January 1, 2007, "salary," for the purpose
 133 | of pension contributions and benefit calculations, shall mean
 134 | total cash remuneration paid by the City to a firefighter for
 135 | services rendered, excluding payments for overtime and any lump-
 136 | sum payments for accumulated leave such as accrued vacation
 137 | leave, accrued sick leave, and accrued personal leave. Employees
 138 | who are specifically excluded from bargaining unit recognition
 139 | as set forth in Article 2, but who are members of the West Palm
 140 | Beach Firefighters Pension Fund, shall continue to make

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141 contributions on management incentive benefits. This definition
142 of compensation shall not include any duty employment that is
143 performed for other than the City of West Palm Beach per Article
144 31, Salary Plan. Beginning with salary paid after December 31,
145 2008, and pursuant to Internal Revenue Code Section 414(u)(7),
146 the definition of salary includes amounts paid by the City as
147 differential wages to members who are absent from employment
148 while in qualified military service.

149 17. "Service," "credited service," or "service credit"
150 means the total number of years, and fractional parts of years,
151 of employment of any member in the employ of the Department,
152 omitting intervening years and fractional parts of years of
153 service when the member was not employed by the City. However,
154 no member shall receive credit for years, or fractional parts of
155 years, of service for which the member has withdrawn his or her
156 contributions to the Fund, unless the member repays into the
157 Fund the contributions withdrawn, with interest, within 60
158 months after reemployment. Further, a member may voluntarily
159 leave his or her contributions in the Fund for a period of 5
160 years after leaving the employ of the Department, pending the
161 possibility of his or her being rehired by the Department and
162 remaining employed for a period of not less than 3 years,
163 without losing credit for the time he or she has participated
164 actively as a firefighter. If he or she does not remain employed
165 for a period of at least 3 years as a firefighter with the
166 Department upon reemployment, within 5 years his or her
167 contributions shall be returned without interest in accordance
168 with paragraph (5)(i). In determining the aggregate number of

169 | years of service of any member, the time spent in the military
 170 | service of the United States or United States Merchant Marine by
 171 | the member on leave of absence from the Department for such
 172 | reason shall be added to the years of service, provided such
 173 | time shall not exceed 5 years. Further, to receive credit for
 174 | such service the member must return to employment as a
 175 | firefighter of the City within 1 year after the date of release
 176 | from such active service. Effective January 1, 2007, a member
 177 | who dies or becomes disabled while serving on active duty
 178 | military service which intervenes the member's employment shall
 179 | be entitled to the rights of this section even though such
 180 | member was not reemployed by the City. A member who dies or
 181 | becomes disabled while on active duty military service shall be
 182 | treated as though reemployed the day before the member became
 183 | disabled or died, was credited with the service the member would
 184 | have been entitled to under this section, and then either died a
 185 | nonduty death while employed or became disabled from a nonduty
 186 | disability.

187 | (b) Gender and number.—The masculine gender includes the
 188 | feminine, and words of the singular with respect to persons
 189 | shall include the plural and vice versa.

190 | (c) Board of Trustees created.—There is hereby created a
 191 | Board of Trustees, which shall be solely responsible for
 192 | administering the West Palm Beach Firefighters Pension Fund and
 193 | the West Palm Beach Firemen's Relief and Pension Fund. The Board
 194 | shall be a legal entity, with the power to bring and defend
 195 | lawsuits of every kind, nature, and description, and shall be
 196 | independent of the City to the extent required to accomplish the

197 | intent, requirements, and responsibilities provided for in this
 198 | act and applicable law. The Board shall consist of five
 199 | trustees, as follows:

200 | 1. Two legal residents of the City, who shall be appointed
 201 | by the City. Effective for the current and future terms, each
 202 | resident-trustee shall serve as a trustee for a period of 4 2
 203 | years, unless sooner replaced by the City, at whose pleasure he
 204 | or she shall serve, and may succeed himself or herself as
 205 | trustee.

206 | 2. Two full-time firefighters shall be elected by a
 207 | majority of the firefighters who are members of the Fund.
 208 | Elections shall be held under such reasonable rules and
 209 | regulations as the Board shall from time to time adopt.
 210 | Effective for current and future terms, each member-trustee
 211 | shall serve as a trustee for a period of 4 2 years, unless he or
 212 | she sooner ceases to be a firefighter in the employ of the
 213 | Department, whereupon the members shall choose a successor in
 214 | the same manner as the original appointment. Each member-trustee
 215 | may succeed himself or herself as trustee.

216 | 3. A fifth trustee shall be chosen by a majority of the
 217 | other four trustees. Effective for current and future terms, the
 218 | ~~This~~ fifth person's name shall be submitted to the City, which
 219 | shall, as a ministerial duty, appoint such person to the Board
 220 | as a fifth trustee. The fifth person shall serve as trustee for
 221 | a period of 4 2 years, and may succeed himself or herself as
 222 | trustee.

223 | (d) Board vacancy; how filled.—In the event a trustee
 224 | provided for in subparagraph (c)2. ceases to be a firefighter in

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225 the employ of the Department, such trustee shall be considered
226 to have resigned from the Board. In the event a trustee provided
227 for in subparagraph (c)2. shall resign, be removed, or become
228 ineligible to serve as a trustee, the Board shall, by
229 resolution, declare the office of trustee vacated as of the date
230 of adoption of said resolution. If such a vacancy occurs in the
231 office of trustee within 90 days of the next succeeding election
232 for trustee, the vacancy shall be filled at the next regular
233 election for the next term; otherwise, the vacancy shall be
234 filled for the unexpired portion of the term by the members in
235 the same manner as an original appointment. In the event a
236 trustee provided for in subparagraph (c)1. or subparagraph (c)3.
237 shall resign, be removed, or become ineligible to serve as a
238 trustee, the Board shall, by resolution, declare the office of
239 trustee vacated as of the date of adoption of said resolution. A
240 successor for the unexpired portion of the term shall be chosen
241 in the same manner as an original appointment.

242 (e) Board meetings; quorum; procedures.—The Board shall
243 hold meetings regularly, at least once in each quarter year, and
244 shall designate the time and place thereof. At any meeting of
245 the Board, three trustees shall constitute a quorum. Each
246 trustee shall be entitled to one vote on each question before
247 the Board and at least three concurring votes shall be required
248 for a decision by the Board at any of its meetings. The Board
249 shall adopt its own rules of procedure and shall keep a record
250 of its proceedings. All public records of the Fund shall be kept
251 and maintained as required by law. All meetings of the Board
252 shall be open to the public and shall be held as required by

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253 law.

254 (f) Board chair.—The Board shall elect a chair from among
255 the trustees.

256 (g) Board secretary.—The Board shall elect a secretary
257 from among the trustees. The secretary shall keep a complete
258 minute book of the actions, proceedings, and hearings of the
259 Board.

260 (h) Membership.—All firefighters and all who hold a
261 position of firefighter in the employ of the Department shall be
262 members in the Fund. All firefighters, including the chief, who
263 were in the employ of the Department as of April 30, 1959, shall
264 be given credit for service rendered in the employ of the
265 Department prior to May 1, 1959. New members to the Fund are
266 required to undergo a physical examination for purposes of
267 determining preexisting conditions. This physical examination
268 shall be conducted in conjunction with the City's postoffer,
269 preemployment physical examination. The Board's medical director
270 shall review the results of this physical examination and
271 provide notice to the Board and the member of any abnormal
272 findings of the examination. This physical examination will be
273 used for the purposes of establishing a physical profile of the
274 member for determining preexisting conditions and presumptive
275 illnesses as provided for in subsection (6). After review, if
276 further physical examination is required, such examination shall
277 be conducted at Board expense.

278 (i) Compensation.—The trustees of the Fund shall not
279 receive any compensation for their services as such, but may
280 receive expenses and per diem as provided by law.

281 (2) Professional and clerical services.—

282 (a) Pension administrator.—The pension administrator of
 283 the Fund shall be designated by the Board and shall carry out
 284 its orders and directions.

285 (b) Legal counsel.—The City Attorney shall give advice to
 286 the Board in all matters pertaining to its duties in the
 287 administration of the Fund whenever requested, shall represent
 288 and defend the Board as its attorney in all suits and actions at
 289 law or in equity that may be brought against it, and shall bring
 290 all suits and actions in its behalf that may be required or
 291 determined by the Board. However, if the Board so elects, it may
 292 employ independent legal counsel at the Fund's expense for the
 293 purposes set forth in this act.

294 (c) Actuary.—The Board shall designate an enrolled
 295 actuary, who shall be its technical advisor and who shall
 296 perform such actuarial services as are required.

297 (d) Certified public accountant.—The Board shall employ,
 298 at its expense, a certified public accountant to conduct an
 299 independent audit of the Fund. The certified public accountant
 300 shall be independent of the Board and the City.

301 (e) Additional professional, technical, or other
 302 services.—The Board shall have the authority to employ such
 303 professional, technical, or other advisors as required to carry
 304 out the provisions of this act.

305 (3) Sources of revenue.—The financing of the Fund shall
 306 consist of the following sources of revenue:

307 (a) Taxes of insurance companies.—The moneys returned to
 308 the City as provided by chapter 175, Florida Statutes, shall be

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309 used to fund the share account benefit described in paragraph
310 (5) (j). ~~For the plan year October 1, 2003, through September 30,~~
311 ~~2004, all of the chapter 175 funds received shall be utilized to~~
312 ~~offset the City's contributions for the cost of the purchase of~~
313 ~~extra benefits, less any amounts used to fund the share account~~
314 ~~benefits for DROP members who do not convert in accordance with~~
315 ~~sub-subparagraph (5) (a)2.b. Beginning October 1, 2004, the~~
316 ~~chapter 175 moneys shall again be used in full to fund the share~~
317 ~~account benefits provided for in paragraph (5) (j).~~ The City
318 shall not opt out of participation in chapter 175, Florida
319 Statutes, or any similar statutory enactment unless exigent
320 circumstances exist, such as the bankruptcy of the City or
321 changes or amendments to the statute regarding extra benefits by
322 the Legislature. If any statutory changes are made by the
323 Legislature, the City and the Board may renegotiate the impact
324 of such changes, if necessary.

325 (b) Member contributions.—Effective the first full payroll
326 period after October 1, 2003, the member shall contribute 9.85
327 percent of his or her salary to the Fund, which shall be
328 deducted each pay period from the salary of each member in the
329 Department. Effective the first full payroll period after
330 October 1, 2004, the member shall contribute 18.2 percent of his
331 or her salary to the Fund, which shall be deducted each pay
332 period from the salary of each member in the Department.
333 Effective the first full payroll period after January 1, 2005,
334 the member shall contribute 18.7 percent of his or her salary to
335 the Fund, which shall be deducted each pay period from the
336 salary of each member in the Department. Effective the first

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337 full payroll period after January 1, 2006, the member shall
338 contribute 19.2 percent of his or her salary to the Fund, which
339 shall be deducted each pay period from the salary of each member
340 in the Department. All amounts of member contributions that are
341 deducted shall be immediately paid over to the Pension Fund. For
342 contributions made before October 1, 2004, any contribution
343 amount over 6.85 percent is to be used to purchase eligibility
344 for participation in the postretirement health insurance
345 benefits; effective October 1, 2004, that amount will increase
346 to 15.2 percent.

347 (c) City contributions.—The City shall contribute to the
348 Fund annually an amount which, together with the contributions
349 from the members and other income sources as authorized by law,
350 will be sufficient to meet the normal cost of the Fund and to
351 fund the actuarial deficiency over a period of not more than 40
352 years, provided that the net increase, if any, in unfunded
353 liability of the Fund arising from significant amendments or
354 other changes shall be amortized within 30 plan years.

355 (d) Gifts, etc.—All gifts, bequests, and devises when
356 donated for the Fund.

357 (e) Interest from deposits.—All accretions to the Fund by
358 way of interest or dividends on bank deposits or otherwise.

359 (f) Other sources.—All other sources of income now or
360 hereafter authorized by law for the augmentation of the Fund.

361 (4) Custodian of funds.—All moneys and securities of the
362 Fund may be deposited with the cash management coordinator of
363 the City, acting in a ministerial capacity only, who shall be
364 bonded and shall be liable in the same manner and to the same

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365 extent as he or she is liable for the safekeeping of funds for
366 the City. However, any funds and securities so deposited with
367 the cash management coordinator shall be kept in a separate fund
368 by the cash management coordinator or clearly identified as
369 funds and securities of the Fund. In lieu thereof, the Board
370 shall deposit the funds and securities in a qualified public
371 depository designated by the Board. The cash management
372 coordinator or other depository shall receive all moneys due
373 said Fund from all sources whatsoever. All tax revenue received
374 pursuant to the provisions of chapter 175, Florida Statutes,
375 shall be deposited into the Fund no more than 5 days after
376 receipt. Member contributions withheld by the City on behalf of
377 a member shall be deposited into the Fund immediately.

378 (a) Disbursements from the Fund.—The Board may issue
379 drafts upon the Fund pursuant to this act and rules and
380 regulations prescribed by the Board, provided that such drafts
381 shall be issued in accordance with generally accepted accounting
382 procedures, American Institute of Certified Public Accountants
383 guidelines, and rules of the State of Florida Auditor General.
384 All such drafts shall be consecutively numbered, signed by the
385 chair and secretary, or other authorized fiduciary, and each
386 draft shall, upon its face, state the purpose for which it is
387 drawn. For this purpose, the chair and secretary shall be
388 bonded. The Board shall retain such drafts when paid, as
389 permanent vouchers for disbursements made, and no moneys shall
390 be otherwise drawn from the Fund. Payments from the Fund shall
391 be made only upon a specific or general motion or resolution
392 previously adopted by the Board authorizing such payment or

393 payments.

394 (b) Investment of moneys.—The Board shall have the power
 395 and authority to invest and reinvest the moneys of the Fund, and
 396 to hold, purchase, sell, assign, transfer, and dispose of any
 397 securities and investments held in said Fund. The aim of the
 398 investment policies shall be to preserve the integrity and
 399 security of Fund principal, to maintain a balanced investment
 400 portfolio, to maintain and enhance the value of Fund principal,
 401 and to secure the maximum total return on investments that is
 402 consonant with safety of principal, provided that such
 403 investments and reinvestments shall be limited to the following:

404 1. Direct obligations of the United States Government or
 405 any agency thereof and debentures and other evidences of
 406 indebtedness which are fully guaranteed by the United States
 407 Government or any agency thereof for the payment of principal
 408 and interest.

409 2. Direct obligations of the State of Florida.

410 3. In debt securities, preferred and common stocks and
 411 mutual fund shares subject to the limitations set forth in this
 412 section.

413 4. In time or savings accounts of a national bank, a state
 414 bank insured by the Bank Insurance Fund, a savings and loan
 415 association to the extent that deposits are guaranteed by the
 416 Savings Association Insurance Fund which is administered by the
 417 Federal Deposit Insurance Corporation, or a state or federally
 418 chartered credit union whose share accounts are insured by the
 419 National Credit Union Share Insurance Fund.

420 5. Of the total Fund principal in the pension or

421 retirement system, including the amounts deposited in banks or
422 associations, the total thereof invested in preferred stocks
423 shall not aggregate more than 5 percent, and the total amount
424 thereof invested in common stocks and mutual fund shares shall
425 not aggregate more than 70 percent. Percentages shall be based
426 on market value at the end of each reporting period (September
427 30).

428 6. In real property or real estate investments, such
429 investments shall not aggregate more than 15 percent of the
430 market value of the total Fund principal in the pension or
431 retirement system.

432 7. In derivative investments and futures, such investments
433 shall not aggregate more than 10 percent of the market value of
434 the total Fund principal in the pension or retirement system.

435 8. Any investments permitted by sections 112.661 and
436 215.47(1)-(8), (10), and (16), Florida Statutes, up to the
437 limits stated therein.

438 9. The following minimum standards shall govern the
439 eligibility of securities for purchase as investments:

440 a. All corporate and association securities and mutual
441 fund shares shall be issued by a corporation or other legal
442 person, incorporated or otherwise, organized within the United
443 States and domiciled therein to the extent required by section
444 175.071(1)(b), Florida Statutes.

445 b. Not more than 10 percent of the total Fund principal at
446 market value shall be invested in any one issuing company other
447 than obligations of the United States or an agency thereof.

448 c. All stocks issued or guaranteed by a corporation shall

449 be listed on any one or more of the major stock exchanges. In
450 the case of bonds, at a minimum, 80 percent of bonds purchased
451 for the Fund shall hold a rating in one of the four highest
452 classifications by a major rating service. Said bonds and
453 preferred stocks that are convertible into common stocks shall
454 be considered common stocks and the purchase of same shall be
455 limited by the provisions of subparagraph 5.

456 d. The Board shall engage the services of professional
457 investment counsel to assist and advise the trustees in the
458 performance of their duties.

459 e. At least once every 3 years, the Board shall retain an
460 independent consultant professionally qualified to evaluate the
461 performance of its professional money manager or investment
462 counsel. The independent consultant shall make recommendations
463 to the Board at its next regularly scheduled meeting.

464 f. Notwithstanding anything else in this subsection and as
465 provided in section 215.473, Florida Statutes, the Board must
466 identify and publicly report any direct or indirect holdings it
467 may have in any scrutinized company, as defined in that section.
468 Beginning January 1, 2010, the Board must proceed to sell,
469 redeem, divest, or withdraw all publicly traded securities it
470 may have directly in such company. The divestiture of any such
471 security must be completed by September 30, 2010. The Board and
472 its named officers or investment advisors may not be deemed to
473 have breached their fiduciary duty in any action taken to
474 dispose of any such security, and the Board shall have
475 satisfactorily discharged the fiduciary duties of loyalty,
476 prudence, and sole and exclusive benefit to the participants of

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477 the Fund and their beneficiaries if the actions it takes are
478 consistent with the duties imposed by section 215.473, Florida
479 Statutes, as provided for in section 175.071(8), Florida
480 Statutes, and the manner of the disposition, if any, is
481 reasonable as to the means chosen. For purposes of determining
482 which companies are scrutinized companies, the Board may utilize
483 the list of scrutinized companies as developed by the Florida
484 State Board of Administration. No person may bring any civil,
485 criminal, or administrative action against the Board or any
486 employee, officer, director, or advisor of the Fund based upon
487 the divestiture of any security pursuant to this subsection.

488 (c) Maximum of cash not invested.—No more than 10 percent
489 of the assets of the Fund shall be held in cash or in
490 noninterest-bearing deposits.

491 (d) Administrative expenses.—The administrative expenses
492 of the Fund shall be paid by the Fund.

493 (e) Restrictions on the use of assets of Fund.—The assets
494 of the Fund shall be used only for the payment of benefits and
495 other disbursements authorized by this act and shall be used for
496 no other purpose.

497 (5) Service pension.—

498 (a) Normal retirement.—

499 1. Any member who is actively employed on and after
500 October 1, 2003, excluding members in the DROP, who has attained
501 age 50 years and who has acquired 15 or more years of service
502 credit; who has attained age 55 years and who has acquired 10 or
503 more years of service credit; or who has acquired 26 years of
504 service credit without regard to age shall, upon application

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505 filed with the Board, be retired and shall be entitled to a
506 monthly pension for the remainder of his or her life equal to
507 ~~the greater of the following:~~

508 a. 4 ~~Four~~ percent of final average salary times credited
509 service subject to a maximum of 92 percent of final average
510 salary. However, in all cases, members shall be entitled to at
511 least 2 percent per year of credited service. ~~;~~ or

512 b. ~~The sum of the following:~~

513 (I) ~~Two and one-half percent of final average salary~~
514 ~~multiplied by the number of years, and fraction of a year, of~~
515 ~~service credit to a maximum of 26 years of service, and 2~~
516 ~~percent of his or her final average salary multiplied by the~~
517 ~~number of years, and fraction of a year, in excess of 26 years~~
518 ~~of service, for all years of service earned through September~~
519 ~~30, 1988; and~~

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

523 2. ~~Any member who is actively employed by the Department~~
524 ~~on and after October 1, 2003, and who is a member of the DROP on~~
525 ~~or after that date, may elect one of the following transition~~
526 ~~benefits by making a written election within 45 days after the~~
527 ~~effective date of this special act on a form provided by the~~
528 ~~Board of Trustees. The right to elect the transition benefits~~
529 ~~contained in sub-subparagraph b. shall terminate if no written~~
530 ~~election is made within 45 days after the effective date of this~~
531 ~~act. In the event a member does not submit a timely written~~
532 ~~election, the member shall be deemed to have elected the~~

533 ~~transition benefits contained in sub-subparagraph a. below:~~

534 ~~a. Retain member's original monthly retirement benefit,~~
535 ~~DROP account balance, and share account balance. DROP members~~
536 ~~who select this transition benefit may continue to participate~~
537 ~~in the DROP until the end of the original DROP term. Additional~~
538 ~~allocations to the share account shall be made in accordance~~
539 ~~with the provisions of paragraph (j).~~

540 ~~b. Convert the member's original monthly benefit and DROP~~
541 ~~balance to a new monthly benefit and BackDROP. In order to be~~
542 ~~entitled to this benefit, the member must cease membership in~~
543 ~~the DROP program. The new converted benefits will not be paid~~
544 ~~until the member has terminated employment. The conversion of~~
545 ~~the member's benefits shall be based on the following:~~

546 ~~(I) Original monthly benefit conversion: A DROP member is~~
547 ~~entitled to a conversion of the original monthly benefit in an~~
548 ~~amount equal to 4 percent for each year of credited service~~
549 ~~excluding the BackDROP period with a 2-year final average~~
550 ~~salary. The 2-year final average salary shall be determined~~
551 ~~based on a 24-month period with the highest average prior to the~~
552 ~~number of full years of BackDROP (selected by the member in~~
553 ~~accordance with sub-sub-subparagraph II). No final average~~
554 ~~salary shall be included in a monthly benefit calculation for~~
555 ~~which a member has received a BackDROP payment.~~

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

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561 2. The 4-percent benefit accrual factor in subparagraph 1.
562 ~~sub-subparagraph 1.a.~~ is contingent on and subject to the
563 adoption and maintenance of the assumptions set forth in
564 subsection (22). If such assumptions are modified by
565 legislative, judicial, or administrative agency action, and the
566 modification results in increased City contributions to the
567 Pension Fund, the 4-percent accrual factor in subparagraph 1.
568 ~~sub-subparagraph 1.a.~~ shall be automatically decreased
569 prospectively, from the date of the action, to completely offset
570 the increase in City contributions. However, in no event shall
571 the benefit accrual factor in subparagraph 1. ~~sub-subparagraph~~
572 ~~1.a.~~ be adjusted below 3.5 percent. To the extent that the
573 benefit accrual factor is less than 4 percent, the supplemental
574 pension distribution calculation under paragraph (d) shall be
575 adjusted for employees who retire on or after October 1, 1998,
576 and those employees who were members of the DROP on October 1,
577 1998. The adjustment shall be to decrease the minimum return of
578 8.25 percent needed to afford the supplemental pension
579 distribution, when the amount of the reduction is zero if an
580 employee has been credited with 16 or more years with the 3-
581 percent benefit accrual factor or 1.25 percent if an employee
582 has been credited with no more than a 2.5-percent benefit
583 accrual factor. If an employee has been credited with less than
584 16 years at the 3-percent benefit accrual factor, then the
585 accumulated amount over 2.5 percent for each year of service
586 divided by .5 percent divided by 16 subtracted from 1 multiplied
587 by 1.25 percent is the reduction from 8.25 percent. An example
588 of the calculation of the minimum return for supplemental

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589 pension distribution as described above is set forth in Appendix
590 B to the collective bargaining agreement between the City of
591 West Palm Beach and the West Palm Beach Association of
592 Firefighters, Local 727-IAFF, October 1, 2003-September 30,
593 2006.

594 (b) Vested deferred retirement.—A member who leaves the
595 employ of the Department with 10 or more years of credited
596 service who is not eligible for any other retirement benefit
597 under this act shall be entitled to the applicable pension
598 provided for in paragraph (a) or paragraph (c). Payment of this
599 pension shall begin the first day of the calendar month
600 following the month in which the member's application is filed
601 with and accepted by the Board on or after attainment of age 50
602 years. If applicable, the amount of the pension shall be
603 determined in accordance with paragraph (c).

604 (c) Early retirement.—Any member may retire from the
605 service of the Department as of the first day of any calendar
606 month which is prior to the member's normal retirement date but
607 subsequent to the date as of which the member has both attained
608 the age of 50 and has been a member of this Fund for 10
609 continuous years. In the event of early retirement, the monthly
610 amount of retirement income shall be computed as described in
611 paragraph (a), taking into account his or her credited service
612 to the date of actual retirement and his or her final average
613 salary as of such date. The amount of retirement income shall be
614 actuarially reduced to take into account the member's younger
615 age and earlier commencement of retirement income benefits. The
616 early retirement reduction shall be 3 percent for each year by

617 | which the member's age at retirement preceded the member's
 618 | normal retirement age.

619 | (d) Supplemental pension distribution.—

620 | 1.a. The actuary for the Pension Fund shall determine the
 621 | rate of investment return earned on Pension Fund assets during
 622 | the 12-month period ending each September 30. The rate
 623 | determined shall be the rate reported in the most recent
 624 | actuarial report submitted pursuant to part VII of chapter 112,
 625 | Florida Statutes.

626 | b. The actuary for the Pension Fund shall determine the
 627 | actuarial present value, as of September 30, of future pension
 628 | payments to eligible persons, as described in subparagraph 3.,
 629 | who are then being paid a pension. The actuarial present values
 630 | shall be calculated using an interest rate of 7 percent per year
 631 | compounded yearly and a mortality table as approved by the Board
 632 | of Trustees and as used in the most recent actuarial report
 633 | submitted pursuant to part VII of chapter 112, Florida Statutes.

634 | c. A distribution amount shall be determined as of each
 635 | September 30. For distributions made after October 1, 1998,
 636 | there shall be two different calculations to determine the
 637 | distribution amount. For those employees who retire on or after
 638 | October 1, 1998, or who are part of the DROP on or after October
 639 | 1, 1998, the distribution amount shall be equal to factor (i)
 640 | for each applicable member multiplied by the sum of factor (ii)
 641 | and the positive difference, if any, between factor (iii) and
 642 | 8.25 percent. For those employees who have retired before
 643 | October 1, 1998, except as provided in this sub-subparagraph,
 644 | the distribution amount shall be equal to factor (i) for each

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645 applicable member multiplied by the sum of factor (ii) and the
646 positive difference, if any, between factor (iii) and 7 percent.
647 For purposes of both calculations, factor (i) is the actuarial
648 present value determined in sub-subparagraph ~~1~~.b. for the
649 respective group. Factor (ii) is one-half of the investment
650 return rate in sub-subparagraph ~~1~~.a. in excess of 9 percent.
651 Factor (iii) is the rate of investment return in sub-
652 subparagraph ~~1~~.a., not to exceed 9 percent. The distribution
653 amount shall not exceed accumulated net actuarial experience
654 from all pension liabilities and assets. If the net actuarial
655 experience is favorable, cumulatively, commencing with the
656 experience for the year ended September 30, 1985, after offset
657 for all prior supplemental distributions, the supplemental
658 distribution may be made. If the net actuarial experience is
659 unfavorable, cumulatively, commencing with the experience for
660 the year ended September 30, 1985, after offset for all prior
661 supplemental distributions, no supplemental distribution may be
662 made, and the City must amortize the loss until it is offset by
663 cumulative favorable experience.

664
665 If an actuarial report submitted as provided in this paragraph
666 is not state accepted prior to distribution, and if a deficiency
667 to the Pension Fund results, the deficiency shall be made up
668 from the next available supplemental pension distribution,
669 unless sooner made up by agreement between the Board of Trustees
670 and the City. No such deficiency shall be permitted to continue
671 for a period of greater than 3 years from the date of payment of
672 the supplemental pension distribution which resulted in the

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673 deficiency.

674 2. The Board of Trustees shall determine annually if there
675 is to be a supplemental pension distribution. The supplemental
676 pension distribution is that portion of the distribution amount,
677 as defined in sub-subparagraph 1.c., to be distributed to
678 eligible persons.

679 3. Eligible persons are:

680 a. Pensioners.

681 b. Surviving spouses.

682 c. Surviving dependent children.

683 d. Surviving dependent parents.

684 e. Pensioners' estates for the year following death only.

685

686 Eligible persons are initially eligible if they have been in
687 receipt of a pension for at least 1 year on the first
688 distribution date following their retirement. A survivor
689 beneficiary of a deceased retired member shall be considered to
690 have been in receipt of a pension for at least 1 year if at
691 least 12 monthly pension payments have been made on account of
692 the retirement. A surviving spouse may count the retirement
693 period, if any, of the deceased member toward the 1-year
694 requirement. Surviving spouses, children, and parents and
695 retired members who receive pension adjustments under the prior
696 escalator clause are not eligible for the supplemental pension
697 distribution.

698 4. The supplemental pension distribution dates shall be
699 the April 1 following the effective date of this subsection and
700 each April 1 thereafter. Each eligible person shall be paid his

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701 or her allocated portion of the applicable supplemental pension
702 distribution amount from the preceding September 30. A
703 pensioner's estate is entitled to a pro rata share of the
704 deceased retiree's supplemental pension distribution based on
705 the number of months that the deceased retiree received a
706 pension during the year ending the September 30 prior to the
707 pensioner's death after initial eligibility.

708 5. Each supplemental pension distribution amount shall be
709 allocated among the eligible persons in the proportion that an
710 eligible person's supplemental pension distribution points bears
711 to the aggregate amount of supplemental pension distribution
712 points of all eligible persons. An eligible person shall be
713 credited with supplemental pension distribution points as
714 follows:

715 a. Three and eighty-five hundredths of a point multiplied
716 by the service credit of the member at the time of retirement or
717 prior to death; however, in the computation of the supplemental
718 pension distribution due the in-line-of-duty pensioner, the
719 maximum service credit of 26 years shall be used.

720 b. Maximum service credit shall be 26 years.

721 c. Allocations for surviving spouses and surviving
722 dependent children who are eligible to receive supplemental
723 pension distributions shall be 75 percent of the years of
724 service earned by the pensioner. Allocations for duty death
725 beneficiaries (surviving spouse and surviving children) shall be
726 based upon 75 percent of 26 years of service.

727 (e) Payment of benefits.—

728 1. First payment.—Service pensions shall be payable on the

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729 first day of each month. The first payment shall be payable on
730 the first day of the month coincident with or next following the
731 date of retirement, or death, provided the member has completed
732 the applicable age and service requirements.

733 2. Last payment.—The last payment shall be the payment due
734 next preceding the member's death, except that payments shall be
735 continued to the designated beneficiary or beneficiaries if a
736 10-year certain benefit, a joint and survivor option, or
737 beneficiary benefits, as applicable, are payable.

738 (f) Normal form of retirement income.—

739 1. Married member.—The normal form of retirement benefit
740 for a married member or for a member with a dependent child or
741 children or parent or parents shall be a service pension and
742 beneficiary benefits. The service benefit shall provide monthly
743 payments for the life of the member. Thereafter, beneficiary
744 benefits shall be paid as provided in subsection (7).

745 2. Unmarried member.—The normal form of retirement benefit
746 for an unmarried member without a dependent child or children or
747 parent or parents shall be a 10-year certain benefit. This
748 benefit shall pay monthly benefits for the member's lifetime. In
749 the event the member dies after his or her retirement but before
750 receiving retirement benefits for a period of 10 years, the same
751 monthly benefit shall be paid to the beneficiary or
752 beneficiaries as designated by the member for the balance of
753 such 10-year period or, if no beneficiary is designated, to
754 heirs at law, or estate of the member, as provided in section
755 175.181, Florida Statutes.

756 (g) Optional forms of retirement income.—

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757 1.a. In the event of normal, early, or disability
758 retirement, in lieu of the normal form of retirement income
759 payable as specified in paragraph (a), paragraph (b), paragraph
760 (c), or subsection (6) and in lieu of the beneficiary benefits
761 as specified in subsection (7), a member, upon written request
762 to the Board and subject to the approval of the Board, may elect
763 to receive a retirement income of equivalent actuarial value
764 payable in accordance with one of the following options:

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

768 (II) Joint and survivor option.—A retirement income of a
769 modified monthly amount, payable to the member during the joint
770 lifetime of the member and a dependent joint pensioner
771 designated by the member, and following the death of either of
772 them, 100 percent, 75 percent, 66-2/3 percent, or 50 percent of
773 such monthly amounts, payable to the survivor for the lifetime
774 of the survivor.

775 b. The member, upon electing any option of this paragraph,
776 shall designate the joint pensioner or beneficiary or
777 beneficiaries to receive the benefit, if any, payable in the
778 event of his or her death, and will have the power to change
779 such designation from time to time; but any such change shall be
780 deemed a new election and shall be subject to approval by the
781 Board. Such designation shall name a joint pensioner or one or
782 more primary beneficiaries where applicable. If a member has
783 elected an option with a joint pensioner or beneficiary and his
784 or her retirement income benefits have commenced, he or she may

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785 thereafter change the designated joint pensioner or beneficiary
786 only twice. Notwithstanding any other provision of this section,
787 a retired member may change his or her designation of joint
788 annuitant or beneficiary up to two times as provided in section
789 175.333, Florida Statutes, without the approval of the Board or
790 the current joint annuitant or beneficiary. The retiree is not
791 required to provide proof of the good health of the joint
792 annuitant or beneficiary being removed, and the joint annuitant
793 or beneficiary being removed need not be living. Any retired
794 member who desires to change his or her joint annuitant or
795 beneficiary shall file with the Board a notarized notice of such
796 change. Upon receipt of a completed change of joint annuitant
797 form or such other notice, the Board shall adjust the member's
798 monthly benefit by the application of actuarial tables and
799 calculations developed to ensure that the benefit paid is the
800 actuarial equivalent of the present value of the member's
801 current benefit and there is no impact to the plan.

802 c. The consent of a member's joint pensioner or
803 beneficiary to any such change shall not be required. ~~However,~~
804 ~~the spouse of a married member must consent to any election to~~
805 ~~waive a joint and survivor benefit by signing the election form~~
806 ~~before a notary public. The spouse's written consent must~~
807 ~~acknowledge the effect of such a waiver. Consent of the spouse~~
808 ~~shall not be required if the spouse cannot be located, or for~~
809 ~~such other circumstances as may be prescribed by the Secretary~~
810 ~~of the Treasury of the United States. Any consent by a spouse~~
811 ~~shall be effective only with respect to such spouse.~~

812 d. For any additional changes in beneficiaries, the Board

813 | may request such evidence of the good health of the joint
 814 | pensioner that is being added as it may require; and the amount
 815 | of the retirement income payable to the member upon the
 816 | designation of a new joint pensioner shall be actuarially
 817 | redetermined, taking into account the age and sex of the former
 818 | joint pensioner, the new joint pensioner, and the member. Each
 819 | such designation shall be filed with the Board. In the event
 820 | that no designated beneficiary survives the member, such
 821 | benefits as are payable in the event of the death of the member
 822 | subsequent to his or her retirement shall be paid as provided in
 823 | subparagraph (h)2.

824 | 2. Retirement income payments shall be made under the
 825 | option elected in accordance with the provisions of this
 826 | paragraph and shall be subject to the following limitations:

827 | a. If a member dies prior to his or her normal retirement
 828 | date or early retirement date, whichever first occurs,
 829 | retirement benefits shall be paid in accordance with subsection
 830 | (7).

831 | b. If the designated beneficiary or beneficiaries or joint
 832 | pensioner dies before the member's retirement, the option
 833 | elected shall be canceled automatically and a retirement income
 834 | of the normal form and amount shall be payable to the member
 835 | upon the member's retirement as if the election had not been
 836 | made, unless a new election is made in accordance with the
 837 | provisions of this paragraph or a new beneficiary is designated
 838 | by the member prior to retirement.

839 | c. If a member continues in the employ of the Department
 840 | after meeting the age and service requirements set forth in

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841 paragraph (a) or paragraph (c) and dies prior to the member's
842 actual retirement, and while an option made pursuant to this
843 subparagraph is in effect, monthly retirement income payments
844 shall be paid, under the option, to a beneficiary or
845 beneficiaries designated by the member in the amount or amounts
846 computed as if the member has retired under the option on the
847 date on which the member's death occurred.

848 3. No member may make any change in his or her retirement
849 option after the date of cashing or depositing the first
850 retirement check.

851 (h) Designation of beneficiary.—

852 1. Each member may, on a form provided for that purpose,
853 signed and filed with the Board, designate a beneficiary or
854 beneficiaries to receive the benefit, if any, which may be
855 payable in the event of the member's death; and each designation
856 may be revoked by such member by signing and filing with the
857 Board a new designation of beneficiary form. However, after the
858 benefits have commenced, a retirant may change his or her
859 designation of joint annuitant or beneficiary only twice. If the
860 retirant desires to change his or her joint annuitant or
861 beneficiary, the retirant shall file with the Board a notarized
862 notice of such change either by registered letter or on a form
863 as provided by the Board. Upon receipt of a completed change of
864 joint annuitant form or such other notice, the Board shall
865 adjust the member's monthly benefit by the application of
866 actuarial tables and calculations developed to ensure that the
867 benefit paid is the actuarial equivalent of the present value of
868 the member's current benefit.

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869 2. Absence or death of beneficiary.—If a deceased member
 870 fails to name a beneficiary in the manner prescribed in
 871 subparagraph 1., or if the beneficiary or beneficiaries named by
 872 a deceased member predecease the member, the beneficiary
 873 benefits, if any, which may be payable with respect to such
 874 deceased member may be paid, in the discretion of the Board to:

- 875 a. The spouse or dependent child or children of the
- 876 member;
- 877 b. The dependent living parent or parents of the member;
- 878 or
- 879 c. The estate of the member.

880 (i) Refund of contributions.—In the event a member leaves
 881 the employ of the Department or dies with less than 10 years of
 882 credited service, and no service pension, disability pension, or
 883 beneficiary benefit is payable, the contributions made by him or
 884 her to the Fund shall be refunded, without interest (less any
 885 disability payments paid to the member), to the member or, in
 886 the event of death, to the beneficiary or to the member's
 887 estate.

888 (j) Chapter 175, Florida Statutes, share accounts.—

889 1. Individual member accounts.—A separate account shall be
 890 established and maintained in each member's name effective on or
 891 after October 1, 1988.

892 2. Share account funding.—

893 a. Each individual member account shall be credited with a
 894 pro rata share of all of the moneys received from chapter 175,
 895 Florida Statutes, tax revenues in June 1988 and thereafter.

896 b. In addition, any forfeitures as provided in

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897 | subparagraph 5. shall be credited to the individual member
898 | accounts in accordance with the formula set forth in
899 | subparagraph 3.

900 | 3. Annual allocation of accounts.—

901 | a. Moneys shall be credited to each individual member
902 | account in an amount directly proportionate to the number of pay
903 | periods for which the member was paid compared to the total
904 | number of pay periods for which all members were paid, counting
905 | the pay periods in the calendar year preceding the date for
906 | which chapter 175, Florida Statutes, tax revenues were received.
907 | ~~For the fiscal year beginning October 1, 2003, and ending~~
908 | ~~September 30, 2004, share account allocations shall only be made~~
909 | ~~to DROP members who elect not to convert in accordance with sub-~~
910 | ~~subparagraph (5)(a)2.b. For purposes of determining the pro rata~~
911 | ~~share for those share account allocations during the fiscal year~~
912 | ~~beginning October 1, 2003, and ending September 30, 2004, the~~
913 | ~~pay periods of all active firefighters, including DROP members,~~
914 | ~~shall be used.~~ Share account allocations made on and after
915 | October 1, 2004, shall be made to each individual share account.

916 | b. At the end of each fiscal quarter ~~year (September 30)~~,
917 | each individual account shall be adjusted to reflect the
918 | earnings or losses resulting from investment, as well as
919 | reflecting costs, fees, and expenses of administration.

920 | c. ~~Effective October 1, 2002,~~ Vested participants have the
921 | option to select one of three methods to credit investment
922 | earnings to their account. The method may be changed each year
923 | effective October 1; however, the method must be elected prior
924 | to October 1. The methods are:

925 (I) The investment earnings or losses credited to the
 926 individual member accounts shall be in the same percentage as
 927 are earned or lost by the total investment earnings or losses of
 928 the Fund as a whole, unless the Board dedicates a separate
 929 investment portfolio for chapter 175, Florida Statutes, share
 930 accounts, in which case the investment earnings or losses shall
 931 be measured by the investment earnings or losses of the separate
 932 investment portfolio;

933 (II) A fixed annual rate of 8.25 percent; or

934 (III) A percentage of the share account assets to be
 935 credited with earnings or losses in accordance with sub-sub-
 936 subparagraph (I) and a corresponding percentage of the share
 937 account assets credited in accordance with sub-sub-subparagraph
 938 (II). The combined total percentage invested under this sub-sub-
 939 subparagraph must equal 100 percent.

940 d. Costs, fees, and expenses of administration shall be
 941 debited from the individual member accounts on a proportionate
 942 basis, taking the cost, fees, and expenses of administration of
 943 the Fund as a whole, multiplied by a fraction, the numerator of
 944 which is the total assets in all individual member accounts and
 945 the denominator of which is the total assets of the Fund as a
 946 whole. The proportionate share of the costs, fees, and expenses
 947 shall be debited from each individual member account on a pro
 948 rata basis in the same manner as chapter 175, Florida Statutes,
 949 tax revenues are credited to each individual member account
 950 (i.e., based on pay periods).

951 ~~e. If the entire balance of the individual member account~~
 952 ~~is withdrawn before September 30 of any year, there shall be no~~

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953 ~~adjustment made to that individual member account to reflect~~
954 ~~either investment earnings or losses or costs, fees, and~~
955 ~~expenses of administration.~~

956 4. Eligibility for benefits.—Any member who terminates
957 employment with the City, upon the member's filing an
958 application with the Board, shall be entitled to 100 percent of
959 the value of his or her individual member account, provided the
960 member meets any of the following criteria:

961 a. The member is eligible to receive a service pension as
962 provided in this subsection;

963 b. The member has 5 or more years of credited service and
964 is eligible to receive either:

965 (I) A nonduty disability pension as provided in paragraph
966 (6) (a); or

967 (II) Beneficiary benefits for nonduty death as provided in
968 paragraph (7) (a); or

969 c. The member has any credited service and is eligible to
970 receive either:

971 (I) A duty disability pension as provided in paragraph
972 (6) (c); or

973 (II) Beneficiary benefits for death in the line of duty as
974 provided in paragraph (7) (b).

975 5. Forfeitures.—Any member who has less than 10 years of
976 credited service and who is not eligible for payment of benefits
977 after termination of employment with the City shall forfeit his
978 or her individual member account. The amounts credited to said
979 individual member account shall be redistributed to the other
980 individual member accounts in the same manner as chapter 175,

981 Florida Statutes, tax revenues are credited (i.e., based on pay
 982 periods). However, the assets shall first be used to ensure that
 983 the former member's refund of contributions has not actuarially
 984 adversely impacted the payment for the extra benefits. If there
 985 has been an adverse impact, the shortfall shall be made up first
 986 before the amounts are reallocated to active members.

987 6. Payment of benefits.—The normal form of benefit payment
 988 shall be a lump sum payment of the entire balance of the
 989 individual member account; or, upon the written election of the
 990 member, upon a form prescribed by the Board, payment may be made
 991 either by:

992 a. Installments.—The account balance shall be paid out to
 993 the member in three equal payments paid over 3 years, the first
 994 payment to be made upon approval of the Board; or

995 b. Annuity.—The account balance shall be paid out in
 996 monthly installments over the lifetime of the member or until
 997 the entire balance is exhausted. The monthly amount paid shall
 998 be determined by the Fund's actuary in accordance with
 999 selections made by the member in a form provided by the Board.

1000 7. Death of a member.—If a member dies and is eligible for
 1001 benefits from the individual member account, the entire balance
 1002 of the individual member account shall be paid in a lump sum to
 1003 the beneficiaries designated in accordance with paragraph (h).
 1004 If a member fails to designate a beneficiary or, if the
 1005 beneficiary predeceases the member, the entire balance shall be
 1006 paid in a lump sum in the following order:

1007 a. To the spouse;

1008 b. If there is no spouse or the spouse is not alive, to

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1009 the member's surviving child or children on a pro rata basis;
 1010 c. If there are no children or no child is alive, to the
 1011 member's parent or parents; or
 1012 d. If no parent is alive, to the estate of the member.
 1013 (k) Deferred Retirement Option Plan (DROP).—Effective upon
 1014 the ratification of the collective bargaining agreement between
 1015 the City of West Palm Beach and the West Palm Beach Association
 1016 of Firefighters, Local 727-IAFF, October 1, 2003-September 30,
 1017 2006, no new members may enter into the DROP. Existing DROP
 1018 members on the ratification date shall have the option to remain
 1019 in the DROP for the remainder of their individual 5-year terms
 1020 ~~in accordance with the provisions of subparagraph (5)(a)2.~~
 1021 1. Eligibility to participate in the DROP.—
 1022 a. Any member who is eligible to receive an early or
 1023 normal retirement pension may participate in the DROP. Members
 1024 shall elect to participate by applying to the Board of Trustees
 1025 on a form provided for that purpose.
 1026 b. Election to participate shall be forfeited if not
 1027 exercised within the first 35 years of combined credited
 1028 service.
 1029 c. A member shall not participate in the DROP beyond the
 1030 time of attaining 37 years of service and the total years of
 1031 participation in the DROP shall not exceed 5 years. For example:
 1032 (I) Members with 32 years of credited service at the time
 1033 of entry shall participate for only 5 years.
 1034 (II) Members with 33 years of credited service at the time
 1035 of entry shall participate for only 4 years.
 1036 (III) Members with 34 years of credited service at the

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1037 time of entry shall participate for only 3 years.

1038 (IV) Members with 35 years of credited service at the time
 1039 of entry shall participate for only 2 years.

1040 d. Upon a member's election to participate in the DROP, he
 1041 or she shall cease to be a member and shall no longer accrue any
 1042 benefits under the Pension Fund, except for the benefits
 1043 provided under paragraph (j) of this subsection, chapter 175,
 1044 Florida Statutes, share accounts. For all Fund purposes, the
 1045 member becomes a retirant, except that a DROP participant shall
 1046 continue to receive shares of the chapter 175, Florida Statutes,
 1047 money in accordance with paragraph (j), chapter 175, Florida
 1048 Statutes, share accounts. The amount of credited service and
 1049 final average salary shall freeze as of the date of entry into
 1050 the DROP.

1051 2. Amounts payable upon election to participate in the
 1052 DROP.—

1053 a. Monthly retirement benefits that would have been
 1054 payable had the member terminated employment with the Department
 1055 and elected to receive monthly pension payments shall be paid
 1056 into the DROP and credited to the retirant. Payments into the
 1057 DROP shall be made monthly over the period the retirant
 1058 participates in the DROP, up to a maximum of 60 months.

1059 b. ~~Effective October 1, 2002,~~ Participants have the option
 1060 to select one of three methods to credit investment earnings to
 1061 their account. Investment earnings shall be credited on a
 1062 quarterly basis. The method may be changed each year effective
 1063 October 1; however, the method must be elected prior to October
 1064 1. The methods are:

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1065 (I) Earnings using the rate of investment return earned on
 1066 Pension Fund assets as reported by the Fund's investment
 1067 monitor. DROP assets are commingled with the Pension Fund assets
 1068 for investment purposes;

1069 (II) A fixed rate of 8.25 percent; or

1070 (III) A percentage of the DROP account assets to be
 1071 credited with earnings or losses in accordance with sub-sub-
 1072 subparagraph (I) and a corresponding percentage of the DROP
 1073 account assets credited in accordance with sub-sub-subparagraph
 1074 (II). The combined total percentage invested under this sub-sub-
 1075 subparagraph must equal 100 percent.

1076

1077 However, if a member does not terminate employment at the end of
 1078 participation in the DROP, interest credit shall cease on the
 1079 balance.

1080 c. No payments shall be made from the DROP until the
 1081 member terminates employment with the Department.

1082 d. Upon termination of employment, participants in the
 1083 DROP shall receive the balance of the DROP account in accordance
 1084 with the following rules:

1085 (I) Members may elect to begin to receive payment upon
 1086 termination of employment or defer payment of the DROP until the
 1087 latest day under sub-sub-subparagraph (III).

1088 (II) Payments shall be made in either:

1089 (A) Lump sum.—The entire account balance shall be paid to
 1090 the retirant upon approval of the Board of Trustees.

1091 (B) Installments.—The account balance shall be paid out to
 1092 the retirant in three equal payments paid over 3 years, the

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1093 first payment to be made upon approval of the Board of Trustees.

1094 (C) Annuity.—The account balance shall be paid out in
 1095 monthly installments over the lifetime of the member or until
 1096 the entire balance is exhausted. Monthly amount paid will be
 1097 determined by the Fund's actuary in accordance with selections
 1098 made by the member in a form provided by the Board of Trustees.

1099 (III) Any form of payment selected by a member must comply
 1100 with the minimum distribution requirements of the IRC 401(A)(9),
 1101 and are subject to the requirements of subsection (18).

1102 (IV) The beneficiary of the DROP participant who dies
 1103 before payments from DROP begin shall have the same right as the
 1104 participant in accordance with subsection (7).

1105 e. Costs, fees, and expenses of administration shall be
 1106 debited from the individual member accounts on a proportionate
 1107 basis, taking the cost, fees, and expenses of administration of
 1108 the Fund as a whole, multiplied by a fraction, the numerator of
 1109 which is the total assets in all individual member accounts and
 1110 the denominator of which is the total assets of the Fund as a
 1111 whole.

1112 3. Loans from the DROP.—

1113 a. Availability of loans.—

1114 (I) Loans are available to members only after termination
 1115 of employment, provided the member had participated in the DROP
 1116 for a period of 12 months.

1117 (II) Loans may only be made from a member's own account.

1118 (III) There may be no more than one loan at a time.

1119 b. Amount of loan.—

1120 (I) Loans may be made up to a maximum of 50 percent of

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1121 account balance.

1122 (II) The maximum dollar amount of a loan is \$50,000,
 1123 reduced by the highest outstanding loan balance during the last
 1124 12 months.

1125 (III) The minimum amount of a loan is \$5,000.

1126 c. Limitation on loans.—Loans shall be made from the
 1127 amounts paid into the DROP and earnings thereon.

1128 d. Term of loan.—

1129 (I) A loan must be for at least 1 year.

1130 (II) A loan shall be for no longer than 5 years.

1131 e. Loan interest rate.—

1132 (I) The interest rate shall be fixed at the time the loan
 1133 is originated for the entire term of the loan.

1134 (II) The interest rate shall be equal to the lowest prime
 1135 rate published by the Wall Street Journal on the last day of
 1136 each calendar quarter preceding the date of the loan
 1137 application.

1138 f. Defaults of loans.—

1139 (I) A loan shall be in default if 2 consecutive months of
 1140 repayments are missed or if a total of 4 months of repayments is
 1141 missed.

1142 (II) Upon default, the entire balance of the loan becomes
 1143 due and payable immediately.

1144 (III) If a loan in default is not repaid in full
 1145 immediately, the loan may be canceled and the outstanding
 1146 balance treated as a distribution, which may be taxable.

1147 (IV) Upon default of a loan, a member shall not be
 1148 eligible for additional loans.

1149 | g. Miscellaneous provisions.—
 1150 | (I) All loans must be evidenced by a written loan
 1151 | agreement signed by the member and the Board of Trustees. The
 1152 | agreement shall contain a promissory note.
 1153 | (II) A member's spouse must consent in writing to the
 1154 | loan. The consent shall acknowledge the effect of the loan on
 1155 | the member's account balance.
 1156 | (III) Loans shall be considered general assets of the
 1157 | Fund.
 1158 | (IV) Loans shall be subject to administrative fees to be
 1159 | set by the Board of Trustees.
 1160 | 4. After-tax contributions to the DROP.—
 1161 | a. A member may make after-tax contributions to the DROP.
 1162 | The maximum amount that may be contributed is the lesser of:
 1163 | (I) The IRS 415(c) limit.
 1164 | (II) The amount allowable under IRC 401(m).
 1165 | b. After-tax contributions to the DROP shall earn interest
 1166 | in the same manner as set forth in sub-subparagraph 2.b.
 1167 | c. Distributions to members or their beneficiaries of
 1168 | after-tax contributions may be withdrawn at any time on or after
 1169 | termination of employment. However, payments must be made at
 1170 | least as promptly as required under subsection (18).
 1171 | d. Loans shall not be made against after-tax
 1172 | contributions.
 1173 | (l) Backwards Deferred Retirement Option Plan (BackDROP).—
 1174 | 1. Eligibility to participate in the BackDROP.—
 1175 | a. Any member who has attained age 53 with 18 or more
 1176 | years of service, who has attained age 58 with 13 or more years

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1177 of service, or who has acquired 26 years of service regardless
1178 of age may participate in the BackDROP. Members shall elect to
1179 participate by applying to the Board of Trustees on a form
1180 provided for that purpose. A member may not participate in both
1181 the DROP and the BackDROP.

1182 b. Election to participate shall be forfeited if not
1183 exercised within the first 28 years of credited service.
1184 However, a member who is actively employed by the Department on
1185 October 1, 2003, may elect to participate in the BackDROP beyond
1186 the 28th year as follows: the member may elect to participate in
1187 the benefit for 3 full years in the 29th year of employment, for
1188 1 full year in the 30th year of employment, and after the 30th
1189 year of employment all elections to participate in the BackDROP
1190 end.

1191 c. A member shall not be eligible to receive a BackDROP
1192 benefit that is greater than an accumulation of 60 months of the
1193 monthly retirement benefit. A member shall not be eligible to
1194 receive a benefit which is less than an accumulation of 36
1195 months of the monthly retirement benefit, except for the
1196 reduction of benefits as defined in sub-subparagraph b.

1197 d. Member contributions shall continue throughout the
1198 period of employment and are not refundable for the BackDROP
1199 period.

1200 e. Members who elect to participate in the BackDROP must
1201 retire and terminate employment to be eligible for payment of
1202 the benefit.

1203 f. Any member who terminates employment by any means,
1204 including death, prior to attaining age 53 with 18 or more years

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1205 of service or age 58 with 13 or more years of service or by
 1206 acquiring 26 years of service is not eligible to participate in
 1207 the BackDROP.

1208 2. Benefits payable upon election to participate in the
 1209 BackDROP.—

1210 a. Upon election to receive the BackDROP benefit, a
 1211 member's retirement benefits will be calculated as if the member
 1212 had chosen to retire and terminate employment at a date which is
 1213 more than 36 months but less than 60 months earlier. The number
 1214 of months to be applied is based upon the member's election. The
 1215 monthly pension amount shall be multiplied by the number of
 1216 months of BackDROP selected by the member, which shall be
 1217 between 36 and 60 months, inclusive. The BackDROP benefit shall
 1218 be calculated as a single sum, including interest at the rate of
 1219 8.25 percent less expenses, compounded annually for the period
 1220 of BackDROP.

1221 b. No payments shall be made from the BackDROP until the
 1222 member terminates employment with the Department.

1223 c. Upon termination of employment, participants in the
 1224 BackDROP shall receive the balance of the BackDROP account in
 1225 accordance with the following rules:

1226 (I) Members may elect to receive payment upon termination
 1227 of employment or defer payment of the BackDROP until the latest
 1228 day under sub-sub-subparagraph (III).

1229 (II) Payments shall be made in either:

1230 (A) A lump sum.—The entire account balance shall be paid
 1231 to the retirant upon approval of the Board of Trustees.

1232 (B) Installments.—The account balance shall be paid out to

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1233 the retirant in three equal payments paid over 3 years, the
 1234 first payment to be made upon approval of the Board of Trustees.

1235 (C) Annuity.—The account balance shall be paid out in
 1236 monthly installments over the lifetime of the member or until
 1237 the entire balance is exhausted. The monthly amount paid shall
 1238 be determined by the Fund's actuary in accordance with
 1239 selections made by the member in a form provided by the Board of
 1240 Trustees.

1241 (III) Any form of payment selected by a member must comply
 1242 with the minimum distribution requirements of the IRC 401(A)(9),
 1243 and are subject to the requirements of subsection (18).

1244 (IV) The beneficiary of the BackDROP member shall have the
 1245 same right as the participant in accordance with subsection (7).

1246 3. BackDROP earnings.—

1247 a. BackDROP members may select one of three methods to
 1248 credit investment earnings to their accounts. Investment
 1249 earnings shall be credited on a quarterly basis. The method may
 1250 be changed each year effective October 1; however, the method
 1251 must be elected prior to October 1. The methods are:

1252 (I) The BackDROP is credited with earnings and losses
 1253 using the rate of investment return earned on Pension Fund
 1254 assets as reported by the Fund's investment monitor. BackDROP
 1255 assets are commingled with the Pension Fund assets for
 1256 investment purposes;

1257 (II) A fixed rate of 8.25 percent; or

1258 (III) A percentage of the BackDROP account assets to be
 1259 credited with earnings or losses in accordance with sub-sub-
 1260 subparagraph (I) and a corresponding percentage of the BackDROP

1261 account assets credited in accordance with sub-sub-subparagraph
 1262 (II). The combined total percentage invested under this sub-sub-
 1263 subparagraph must equal 100 percent.

1264 b. Costs, fees, and expenses of administration shall be
 1265 debited from the individual member BackDROP accounts on a
 1266 proportionate basis, taking the cost, fees, and expenses of
 1267 administration of the Fund as a whole, multiplied by a fraction,
 1268 the numerator of which is the total of assets in all individual
 1269 member accounts and the denominator of which is the total of
 1270 assets of the Fund as a whole.

1271 4. Loans from the BackDROP.—

1272 a. Availability of loans.—

1273 (I) Loans are available to members only after termination
 1274 of employment, provided the member had participated in the
 1275 BackDROP for a period of at least 12 months.

1276 (II) Loans may only be made from a member's own account.

1277 (III) There may be no more than one loan at a time.

1278 b. Amount of loan.—

1279 (I) Loans may be made up to a maximum of 50 percent of
 1280 account balance.

1281 (II) The maximum dollar amount of a loan is \$50,000,
 1282 reduced by the highest outstanding loan balance during the last
 1283 12 months.

1284 (III) The minimum amount of a loan is \$5,000.

1285 c. Limitation on loans.—Loans shall be made from the
 1286 amounts paid into the BackDROP and earnings thereon.

1287 d. Term of loan.—

1288 (I) A loan must be for at least 1 year.

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1289 (II) A loan shall be for no longer than 5 years.

1290 e. Loan interest rate.—

1291 (I) The interest rate shall be fixed at the time a loan is
1292 originated for the entire term of the loan.

1293 (II) The interest rate shall be equal to the lowest prime
1294 rate published by the Wall Street Journal on the last day of
1295 each calendar quarter preceding the date of the loan
1296 application.

1297 f. Defaults of loans.—

1298 (I) A loan shall be in default if 2 consecutive months of
1299 repayments are missed or if a total of 4 months of repayments is
1300 missed.

1301 (II) Upon default of a loan, the entire balance of the
1302 loan becomes due and payable immediately.

1303 (III) If a loan in default is not repaid in full
1304 immediately, the loan may be canceled and the outstanding
1305 balance treated as a distribution, which may be taxable.

1306 (IV) Upon default of a loan, a member shall not be
1307 eligible for additional loans.

1308 g. Miscellaneous provisions.—

1309 (I) All loans must be evidenced by a written loan
1310 agreement signed by the member and the Board of Trustees. The
1311 agreement shall contain a promissory note.

1312 (II) A member's spouse must consent in writing to the
1313 loan. The consent shall acknowledge the effect of the loan on
1314 the member's account balance.

1315 (III) Loans shall be considered general assets of the
1316 Fund.

1317 (IV) Loans shall be subject to administrative fees to be
 1318 set by the Board of Trustees.

1319 5. After-tax contributions to the BackDROP.—

1320 a. A member may make after-tax contributions to the
 1321 BackDROP. The maximum amount that may be contributed is the
 1322 lesser of:

1323 (I) The IRS 415(c) limit.

1324 (II) The amount allowable under IRC 401(m).

1325 b. After-tax contributions to the BackDROP shall earn
 1326 interest in the same manner as set forth in sub-subparagraph
 1327 3.a.

1328 c. Distributions to members or their beneficiaries of
 1329 after-tax contributions may be withdrawn at any time on or after
 1330 termination of employment. However, payments must be made at
 1331 least as promptly as required under subsection (18).

1332 d. Loans shall not be made against after-tax
 1333 contributions.

1334 (6) Disability pensions, medical examinations, return to
 1335 work, etc.—

1336 (a) Nonduty disability requirements.—Any member with 5 or
 1337 more years of service credit who is regularly employed in the
 1338 Department who becomes physically or mentally totally and
 1339 permanently disabled by illness, disease, or injury to perform
 1340 the duties of a firefighter shall, upon the member's application
 1341 to the Board, be retired with a pension provided for in this
 1342 paragraph, provided that after a medical examination of the
 1343 member made by or under the direction of a medical committee,
 1344 the medical committee reports to the Board, in writing, whether:

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1345 1. The member is wholly prevented from rendering useful
 1346 and efficient service as a firefighter; and

1347 2. The member is likely to remain so disabled continuously
 1348 and permanently.

1349
 1350 The Board may admit and consider any other evidence that it
 1351 deems appropriate. The final decision as to whether a member
 1352 meets the requirements for a nonduty disability pension rests
 1353 with the Board and shall be based on competent substantial
 1354 evidence on the record as a whole.

1355 (b) Nonduty disability pension benefits.—Upon retirement
 1356 on account of disability as provided in paragraph (a), a member
 1357 shall receive a disability pension computed according to
 1358 subparagraph (5)(a)1., notwithstanding that he or she might not
 1359 have attained age 50 years and might not have 15 or more years
 1360 of service credit. Further, if the member has at least 10 years
 1361 of service credit, the disability pension shall not be less than
 1362 25 percent of the member's average monthly salary at the time of
 1363 disability. A disability retiree may select optional forms of
 1364 benefits in accordance with paragraph (5)(g).

1365 (c) Duty disability requirements.—Any member who is
 1366 regularly employed in the Department and who becomes physically
 1367 or mentally totally and permanently disabled to perform the
 1368 duties of a firefighter by reason of an injury or disease
 1369 arising out of and in the course of the performance of his or
 1370 her duties as a firefighter in the employ of the City, shall,
 1371 upon his or her application to the Board, be retired with a
 1372 disability pension provided for in this paragraph, provided that

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1373 after a medical examination of the member made by or under the
 1374 direction of the medical committee, the medical committee
 1375 reports to the Board in writing, whether:

1376 1. The member is wholly prevented from rendering useful
 1377 and efficient service as a firefighter; and

1378 2. The member is likely to remain so disabled continuously
 1379 and permanently.

1380

1381 The Board shall admit and consider any other evidence that it
 1382 deems appropriate. Any condition or impairment of health of a
 1383 member caused by tuberculosis, hypertension, heart disease,
 1384 hepatitis, or meningococcal meningitis resulting in total
 1385 disability or death shall be presumed to have been accidental
 1386 and suffered in the line of duty unless the contrary is shown by
 1387 competent evidence, provided such member shall have successfully
 1388 passed a physical examination before entering into such service,
 1389 which examination failed to reveal any evidence of such
 1390 condition. In order to be entitled to the presumption in the
 1391 case of hepatitis, meningococcal meningitis, or tuberculosis,
 1392 the member must meet the requirements of section 112.181,
 1393 Florida Statutes. The final decision as to whether a member
 1394 meets the requirements for a disability pension rests with the
 1395 Board, based on competent substantial evidence on the record as
 1396 a whole.

1397 (d) Duty disability pension benefits.—Upon retirement on
 1398 account of disability, as provided in paragraph (c), a member
 1399 shall receive a monthly pension for the remainder of his or her
 1400 life, equal to the greater of the following:

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- 1401 1. Sixty-five percent of the final average salary; or
 1402 2. The sum of the following:
 1403 a. Two and one-half percent of the member's final average
 1404 salary multiplied by the number of years, and fraction of a
 1405 year, of his or her service credit to a maximum of 26 years of
 1406 service, and 2 percent of his or her final average salary
 1407 multiplied by the number of years, and fraction of a year, in
 1408 excess of 26 years of service, for all years of service earned
 1409 through September 30, 1988; and
 1410 b. Two percent of the member's final average salary
 1411 multiplied by the number of years, and fraction of a year, of
 1412 his or her service credit earned on or after October 1, 1988.
 1413 (e) Medical committee.—The medical committee provided for
 1414 in this subsection shall consist of no less than two qualified
 1415 health professionals, one of whom shall be designated by the
 1416 Board and one by the member. If deemed necessary by the Board, a
 1417 third qualified health professional, selected by the two
 1418 committee members previously designated, may be named to the
 1419 medical committee. The medical committee shall report to the
 1420 Board the existence and degree of permanent physical impairment
 1421 of the member, if any, based upon the most recent edition of the
 1422 American Medical Association's Guide to the Evaluation of
 1423 Permanent Impairment, if applicable.
 1424 (f) Exclusions from disability pensions.—No disability
 1425 pension shall be payable, either as a duty disability pension or
 1426 as a nonduty disability pension, if the disability is a result
 1427 of:
 1428 1. Excessive and habitual use by the member of drugs,

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1429 | intoxicants, or narcotics;

1430 | 2. Injury or disease sustained by the member while
1431 | willfully and illegally participating in fights, riots, or civil
1432 | insurrections or while committing a crime;

1433 | 3. Injury or disease sustained by the member while serving
1434 | in any armed forces. This exclusion does not affect members who
1435 | have become disabled as a result of intervening military service
1436 | under the federal Heroes Earnings Assistance and Relief Tax Act
1437 | of 2008, Pub. L. No. 110-245;

1438 | 4. Injury or disease sustained by the member after his or
1439 | her employment has terminated;

1440 | 5. Injury or disease sustained by the member while working
1441 | for anyone other than the City and arising out of such
1442 | employment; or

1443 | 6. Injury or disease sustained by the member before coming
1444 | to work for the City. This exclusion applies to duty disability
1445 | applications only.

1446 | (g) Payment of disability pensions.—Monthly disability
1447 | retirement benefits shall be payable as of the date the Board
1448 | determines that the member was entitled to a disability pension;
1449 | however, the first payment shall actually be paid on the first
1450 | day of the first month after the Board determines such
1451 | entitlement. Any portion due for a partial month shall be paid
1452 | together with the first payment. If the member recovers from the
1453 | disability prior to his or her normal retirement date, the last
1454 | payment shall be the payment due next preceding the date of such
1455 | recovery or, if the member dies without recovering from his or
1456 | her disability, then the following shall apply:

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1457 1. Married member.—Beneficiary benefits as set forth in
 1458 subsection (7) shall be paid if, at the time of death, the
 1459 member was married or had a dependent child or children or
 1460 parent or parents; or

1461 2. Unmarried member with 10 years of service or more.—
 1462 Payments shall be made until the member's death or the 120th
 1463 monthly payment, whichever is later; or

1464 3. Unmarried member with less than 10 years of service.—
 1465 Payments shall be made until the member's death.

1466
 1467 Any monthly retirement income payments due after the death of a
 1468 disabled member shall be paid to the member's designated
 1469 beneficiary or beneficiaries or the member's estate as provided
 1470 in paragraph (5)(h) or subsection (7), as applicable.

1471 (h) Reexamination of disability retirant.—At least once
 1472 each year during the first 5 years following a member's
 1473 retirement on account of disability, and at least once in each
 1474 3-year period thereafter, the Board shall require any disability
 1475 retirant who has not attained age 50 to undergo a medical
 1476 examination to be made by or under the direction of a physician
 1477 designated by the Board. However, if a disability retirant has
 1478 lost the firefighter certification, as required by Florida
 1479 Statutes, then the reexamination is discretionary. If the
 1480 retirant refuses to submit to the medical examination in any
 1481 such period, his or her disability pension may be suspended by
 1482 the Board until withdrawal of such refusal. If such refusal
 1483 continues for 1 year, all of the retirant's rights in and to a
 1484 disability pension may be revoked by the Board. If, upon medical

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1485 examination of the retirant, the physician reports to the Board
1486 that the retirant is physically able and capable of performing
1487 the duties of a firefighter in the rank held by him or her at
1488 the time of retirement, the member shall be returned to
1489 employment in the Department at a salary not less than the
1490 salary of the rank last held by him or her, provided that return
1491 to the employ of the Department shall be subject to the approval
1492 of the Fire Chief. Should the retirant become employed by the
1493 City, his or her disability pension shall terminate.

1494 (i) Return to work of a disability retirant; service
1495 credit.—In the event a disability retirant is returned to
1496 employment in the department, as provided in paragraph (h), his
1497 or her service credit at the time of disability retirement shall
1498 be restored to his or her credit. In the event he or she retired
1499 under the provisions of paragraph (c), he or she shall be given
1500 service credit for the period he or she was in receipt of a
1501 disability pension. If he or she retired under the provisions of
1502 paragraph (a), he or she shall not be given service credit for
1503 the period he or she was in receipt of a disability pension.

1504 (j) Expenses of medical examinations for disability.—The
1505 member shall be responsible for the expenses of the physician
1506 the member designates for medical examinations required under
1507 this subsection. Expenses for any other medical examinations
1508 required under this subsection shall be paid by the Fund.

1509 (7) Beneficiary benefits.—

1510 (a) Death while in service; 5 years or more (nonduty).—In
1511 the event a member with 5 or more years of service credit dies
1512 while in the employ of the Department, and the Board finds his

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1513 or her death to have occurred as the result of causes arising
1514 outside the performance of his or her duties as a firefighter in
1515 the employ of the City, the following applicable pensions shall
1516 be paid:

1517 1. Surviving spouse's benefits.—The surviving spouse shall
1518 receive a pension equal to two-thirds of the pension the member
1519 would otherwise have been entitled to receive under paragraph
1520 (5) (a), as if the member had retired the day preceding the date
1521 of his or her death, notwithstanding that the member might not
1522 have met the age and service requirements for retirement as
1523 specified in subsection (5). Upon the surviving spouse's death,
1524 the pension shall terminate.

1525 2. Benefits for children, surviving spouse, etc.—In the
1526 event the deceased member does not leave a surviving spouse, or
1527 if the surviving spouse shall die, and the member leaves an
1528 unmarried child or children under age 18, each such child shall
1529 receive a pension of an equal share of the pension to which said
1530 member's surviving spouse was or would have been entitled. Upon
1531 any such child's adoption, marriage, death, or attainment of age
1532 18, the child's pension shall terminate and said child's pension
1533 shall be apportioned to the deceased member's remaining eligible
1534 children under age 18.

1535 3. Benefits for dependent parents.—In the event a member
1536 dies and does not leave a surviving spouse or children eligible
1537 to receive a pension provided for in subparagraphs 1. and 2.,
1538 and the member leaves a parent or parents whom the Board finds
1539 to have been dependent upon the member for 50 percent or more of
1540 their financial support, each such parent shall receive a

1541 pension of an equal share of the pension to which the member's
 1542 surviving spouse would have been entitled. Upon any such
 1543 parent's remarriage or death, the parent's pension shall
 1544 terminate.

1545 4. Estate.—In the event a member dies and does not leave a
 1546 surviving spouse, children, or parents eligible to receive a
 1547 pension provided for in subparagraph 1., subparagraph 2., or
 1548 subparagraph 3., then the benefits remaining, if any, shall be
 1549 paid to the member's estate.

1550 (b) Death in the line of duty.—In the event a member dies
 1551 while in the employ of the Department, and the Board finds his
 1552 or her death to be the natural and proximate result of causes
 1553 arising out of and in the actual performance of duty as a
 1554 firefighter in the employ of the City, the following applicable
 1555 pensions shall be paid:

1556 1. Surviving spouse's benefits.—The surviving spouse shall
 1557 receive a monthly pension equal to the greater of:

1558 a. Sixty-six and two-thirds of the member's highest 12
 1559 months' salary or top step firefighter pay, whichever is
 1560 greater; or

1561 b. The surviving spouse's share of the member's accrued
 1562 benefit. Upon the surviving spouse's death, the pension shall
 1563 terminate.

1564 2. Benefits for children, surviving spouse, etc.—In the
 1565 event the deceased member does not leave a surviving spouse, or
 1566 if the surviving spouse shall die, and the member leaves an
 1567 unmarried child or children under age 18, each such child shall
 1568 receive a pension of an equal share of the pension to which the

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1569 member's surviving spouse was or would have been entitled. Upon
 1570 any such child's adoption, marriage, death, or attainment of age
 1571 18, the child's pension shall terminate and said child's pension
 1572 shall be apportioned to the deceased member's remaining eligible
 1573 children under age 18.

1574 3. Benefits for dependent parents.—In the event a member
 1575 dies and does not leave a surviving spouse or children eligible
 1576 to receive a pension provided for in subparagraphs 1. and 2.,
 1577 and the member leaves a parent or parents whom the Board finds
 1578 to have been dependent upon the member for 50 percent or more of
 1579 their financial support, each such parent shall receive a
 1580 pension of an equal share of the pension to which said member's
 1581 surviving spouse would have been entitled. Upon any such
 1582 parent's remarriage or death, the parent's pension shall
 1583 terminate.

1584 4. Estate.—In the event a member dies and does not leave a
 1585 surviving spouse, children, or parents eligible to receive a
 1586 pension provided for in subparagraph 1., subparagraph 2., or
 1587 subparagraph 3., then the benefits remaining, if any, shall be
 1588 paid to the member's estate.

1589 (c) Death after retirement.—Upon the death of a retirant,
 1590 the following applicable pensions shall be paid:

1591 1. Surviving spouse's benefits.—The surviving spouse shall
 1592 receive a pension equal to three-fourths of the retirant's
 1593 pension at the time of his or her death. Upon the surviving
 1594 spouse's death, the pension shall terminate.

1595 2. Benefits for children, surviving spouse, etc.—In the
 1596 event a deceased retirant does not leave a surviving spouse, or

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1597 | if the surviving spouse shall die, and the retirant leaves an
1598 | unmarried child or children under age 18, each such child shall
1599 | receive a pension of an equal share of the pension to which the
1600 | retirant's surviving spouse was or would have been entitled.
1601 | Upon any such child's adoption, marriage, death, or attainment
1602 | of age 18, the child's pension shall terminate and said child's
1603 | pension shall be apportioned to the deceased retirant's
1604 | remaining eligible children under age 18.

1605 | 3. Benefits for dependent parents.—In the event a retirant
1606 | dies and does not leave a surviving spouse or children eligible
1607 | to receive a pension provided for in subparagraphs 1. and 2.,
1608 | and the retirant leaves a parent or parents whom the Board finds
1609 | to have been dependent upon the retirant for 50 percent or more
1610 | of their financial support, each such parent shall receive a
1611 | pension of an equal share of the pension to which the retirant's
1612 | surviving spouse would have been entitled. Upon any such
1613 | parent's remarriage or death, the parent's pension shall
1614 | terminate.

1615 | 4. Estate.—In the event a retirant dies and does not leave
1616 | a surviving spouse, children, or parents eligible to receive a
1617 | pension provided for in subparagraph 1., subparagraph 2., or
1618 | subparagraph 3., then the benefits remaining, if any, shall be
1619 | paid to the retirant's estate.

1620 | (8) Acceptance of pension no bar to subsequent work.—The
1621 | acceptance of a pension by a member upon retirement shall not
1622 | bar the member from engaging in any other business thereafter.

1623 | (9) Pension not assignable or subject to garnishment.—The
1624 | pensions or other benefits accrued or accruing to any person

1625 | under the provision of this act and the accumulated
 1626 | contributions and the cash securities in the Funds created under
 1627 | this act shall not be subject to execution or attachment or to
 1628 | any legal process whatsoever, and shall be unassignable.

1629 | However, pursuant to a court support order, the Trustees may
 1630 | direct that the retirement benefits be paid for alimony or child
 1631 | support in accordance with rules and regulations adopted by the
 1632 | Board of Trustees. Upon written request by the retiree, the
 1633 | Board of Trustees may authorize the Plan administrator to
 1634 | withhold from the monthly retirement payment funds necessary to:

1635 | (a) Pay for benefits being received through the City;

1636 | (b) Pay the certified bargaining agent; or

1637 | (c) Pay for premiums for accident health and long-term
 1638 | care insurance for the retiree's spouse and dependants. A

1639 | retirement plan does not incur liability for participation in
 1640 | this permissive program if its actions are taken in good faith
 1641 | pursuant to section 175.061(7), Florida Statutes.

1642 | (10) Transfer of funds.—All funds and assets previously
 1643 | owned and controlled by the West Palm Beach Firemen's Relief and
 1644 | Pension Fund are vested in the Board of this Fund.

1645 | (11) Ordinances applicable.—All ordinances of the City
 1646 | applicable to chapter 175, Florida Statutes, are hereby made
 1647 | applicable to this act with equal force and effect. No proposed
 1648 | change or amendment to this act shall be adopted without
 1649 | approval required by section 175.351(2), Florida Statutes.

1650 | (12) Existing benefits to continue.—This act, and any
 1651 | amendments thereto, shall not be construed to decrease the
 1652 | benefits payable to, or on account of, any member of the Fund.

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1653 (13) Workers' compensation offset.—The pension benefits
1654 payable under this act shall not be offset by workers'
1655 compensation benefits payable on account of the disability or
1656 death of a member except to the extent that the total of the
1657 pension benefits and workers' compensation benefits exceed the
1658 member's monthly average wage.

1659 (14) Actuarial valuations.—The Fund shall be actuarially
1660 evaluated annually.

1661 (15) Review procedures.—

1662 (a) The applicant for benefits under this chapter may,
1663 within 20 days after being informed of the denial of his or her
1664 request for pension benefits, appeal the denial by filing a
1665 reply to the proposed order with the pension's secretary. If no
1666 appeal is filed within the time period, then the proposed order
1667 shall be final.

1668 (b) The Board of Trustees shall hold a hearing within 45
1669 days after the receipt of the appeal. Written notice of the
1670 hearing shall be sent by certified mail return
1671 receipt/restricted to individual, to the applicant at the
1672 address listed on the application 10 days prior to the hearing.

1673 (c) The procedures at the hearing shall be as follows:

1674 1. All parties shall have an opportunity to respond, to
1675 present physical and testimonial evidence and argument on all
1676 issues involved, to conduct cross-examination, to submit
1677 rebuttal evidence, and to be represented by counsel. Medical
1678 reports and depositions may be accepted in lieu of live
1679 testimony at the Board's discretion.

1680 2. All witnesses shall be sworn.

1681 3. The applicant and the Board shall have an opportunity
1682 to question all witnesses.

1683 4. Formal rules of evidence and formal rules of civil
1684 procedure shall not apply. The proceedings shall comply with the
1685 essential requirements of due process and law.

1686 5. The record in a case governed by this subsection shall
1687 consist only of:

1688 a. A tape recording of the hearing, to be taped and
1689 maintained as part of the official files of the Board of
1690 Trustees by the pension's secretary.

1691 b. Evidence received or considered.

1692 c. All notices, pleadings, motions, and intermediate
1693 rulings.

1694 d. Any decisions, opinions, proposed or recommended
1695 orders, or reports by the Board of Trustees.

1696 (d) Within 5 days after the first hearing, the Board shall
1697 take one of the following actions:

1698 1. Grant the pension benefits by overturning the proposed
1699 order by a majority vote.

1700 2. Deny the benefits and approve the proposed order as a
1701 final order after making any changes in the order the Board
1702 feels is necessary.

1703 (e) Findings of fact by the Board shall be based on
1704 competent, substantial evidence on the record.

1705 (f) Within 20 calendar days after rendering its order, the
1706 Board of Trustees shall send to the applicant, by certified mail
1707 return receipt/restricted to individual, a copy of the order.

1708 (g) The applicant may seek review of the order by the

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1709 Board of Trustees by filing a petition for writ of certiorari
 1710 with the circuit court within 30 days.

1711 (16) Pickup of employee contributions.—Effective the first
 1712 day of the first full payroll period of the first calendar
 1713 quarter following receipt of a favorable determination letter
 1714 from the Internal Revenue Service, the City shall pick up the
 1715 member contribution required by this section. The contributions
 1716 so picked up shall be treated as employer contributions in
 1717 determining tax treatment under the United States Internal
 1718 Revenue Code. The City shall pick up the member contributions
 1719 from funds established and available for salaries, which funds
 1720 would otherwise have been designated as member contributions and
 1721 paid to the Fund. Member contributions picked up by the City
 1722 pursuant to this subsection shall be treated for all other
 1723 purposes of making a refund of members' contributions, and for
 1724 all other purposes of this and other laws, in the same manner
 1725 and to the same extent as member contributions made prior to the
 1726 effective date of this subsection. The intent of this subsection
 1727 is to comply with section 414(H) (2) of the Internal Revenue
 1728 Code.

1729 (17) Internal Revenue Code limits.—

1730 (a) In no event may a member's annual benefit exceed
 1731 \$160,000, adjusted for cost of living in accordance with
 1732 Internal Revenue Code ("IRC") Section 415(d).

1733 (b) If a member has less than 10 years of service with the
 1734 City, the applicable limitation in paragraph (a) shall be
 1735 reduced by multiplying such limitation by a fraction, not to
 1736 exceed 1. The numerator of such fraction shall be the number of

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1737 | years, or part thereof, of service with the City; the
1738 | denominator shall be 10 years.

1739 | (c) For purposes of this subsection, "annual benefit"
1740 | means a benefit payable annually in the form of a straight life
1741 | annuity with no ancillary or incidental benefits and with no
1742 | member or rollover contributions. To the extent that ancillary
1743 | benefits are provided, the limits set forth in paragraph (a)
1744 | shall be reduced actuarially, using an interest rate assumption
1745 | equal to the greater of 5 percent or the rate being used for
1746 | actuarial equivalence, to reflect such ancillary benefits.

1747 | (d) If distribution of retirement benefits begins before
1748 | age 62, the dollar limitation as described in paragraph (a)
1749 | shall be reduced using an interest rate assumption equal to the
1750 | greater of 5 percent or the interest rate used for actuarial
1751 | equivalence; however, retirement benefits shall not be reduced
1752 | below \$75,000 if payment of benefits begins at or after age 55,
1753 | and not below the actuarial equivalent of \$75,000 if payment of
1754 | benefits begins before age 55. For a member with 15 or more
1755 | years of service with the City, the reductions described above
1756 | shall not reduce such member's benefit below \$50,000, adjusted
1757 | for cost of living in accordance with IRC Section 415(d), but
1758 | only for the year in which such adjustment is effective. If
1759 | retirement benefits begin after age 65, the dollar limitation of
1760 | paragraph (a) shall be increased actuarially by using an
1761 | interest assumption equal to the lesser of 5 percent or the rate
1762 | used for actuarial equivalence.

1763 | (e) Compensation in excess of limitations set forth in
1764 | Section 401(a)(17) of the Internal Revenue Code shall be

1765 disregarded. The limitation on compensation for an eligible
 1766 employee shall not be less than the amount which was allowed to
 1767 be taken into account hereunder as in effect on July 1, 1993.
 1768 "Eligible employee" is an individual who was a member before the
 1769 first plan year beginning after December 31, 1995.

1770 (18) Required distributions.—In accordance with IRC
 1771 Section 401(9)(C), any and all benefit payments shall begin by
 1772 the later of:

1773 (a) April 1 of the calendar year following the calendar
 1774 year of the member's retirement date; or

1775 (b) April 1 of the calendar year following the calendar
 1776 year in which the employee attains age 70 1/2.

1777 (19) Miscellaneous requirements.—

1778 (a) No benefit of any kind shall be payable from the
 1779 assets of the Pension Fund unless specifically provided for in
 1780 this act; however, the Board of Trustees, with the approval of
 1781 the City, may grant ad hoc benefits after a public hearing and
 1782 acceptance by the state of an actuarial impact statement
 1783 submitted pursuant to part VII of chapter 112, Florida Statutes.

1784 (b) The City may not offset any part of its required
 1785 annual contribution by the Fund's assets except as determined in
 1786 an actuarial valuation, the report for which is determined to be
 1787 state accepted pursuant to part VII of chapter 112, Florida
 1788 Statutes.

1789 (c) All provisions of this act and operations of the
 1790 Pension Fund shall be carried out in compliance with part VII of
 1791 chapter 112, Florida Statutes.

1792 (d) False or misleading statements made to obtain

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1793 retirement benefits prohibited.-

1794 1. It is unlawful for a person to willfully and knowingly
 1795 make, or cause to be made, or to assist, conspire with, or urge
 1796 another to make, or cause to be made, any false, fraudulent, or
 1797 misleading oral or written statement or to withhold or conceal
 1798 material information to obtain any benefit under this plan.

1799 2.a. A person who violates subparagraph 1. commits a
 1800 misdemeanor of the first degree, punishable as provided in
 1801 section 775.082 or section 775.083, Florida Statutes.

1802 b. In addition to any applicable criminal penalty, upon
 1803 conviction for a violation of subparagraph 1., a participant or
 1804 beneficiary of this plan may, in the discretion of the Board of
 1805 Trustees, be required to forfeit the right to receive any or all
 1806 benefits to which the person would otherwise be entitled under
 1807 this Plan. For the purposes of this sub-subparagraph,
 1808 "conviction" means a determination of guilt that is the result
 1809 of a plea or trial, regardless of whether adjudication is
 1810 withheld.

1811 (20) Rollover distributions.-

1812 (a) This subsection applies to distributions made on or
 1813 after January 1, 1993. Notwithstanding any provision of the Plan
 1814 to the contrary that would otherwise limit a distributee's
 1815 election under this subsection, a distributee may elect, at the
 1816 time and in the manner prescribed by the Board of Trustees, to
 1817 have any portion of an eligible rollover distribution paid
 1818 directly to an eligible retirement plan specified by the
 1819 distributee in a direct rollover.

1820 (b)1. "Eligible rollover distribution" is any distribution

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1821 of all or any portion of the balance to the credit of the
1822 distributee, except that an eligible rollover does not include
1823 any distribution that is one of a series of substantially equal
1824 periodic payments (not less frequently than annually) made for
1825 the life (or life expectancy) of the distributee or the joint
1826 lives (or joint life expectancies) of the distributee and the
1827 distributee's designated beneficiary, or for a specified period
1828 of 10 years or more; any distribution to the extent such
1829 distribution is required under section 401(a)(9) of the Code;
1830 and the portion of any distribution that is not includable in
1831 gross income.

1832 2. "Eligible retirement plan" is an individual retirement
1833 account described in section 408(a) of the Code, an individual
1834 retirement annuity described in section 408(b) of the Code, an
1835 annuity plan described in section 403(a) of the Code, or a
1836 qualified trust described in section 401(a) of the Code that
1837 accepts the distributee's eligible rollover distribution.
1838 However, in the case of an eligible rollover distribution to the
1839 surviving spouse, an "eligible retirement plan" is an individual
1840 retirement account or individual retirement annuity.

1841 3. "Distributee" includes an employee or former employee.
1842 In addition, the employee's or former employee's surviving
1843 spouse and the employee's or former employee's spouse or former
1844 spouse who is entitled to payment for alimony and child support
1845 under a domestic relations order determined to be qualified by
1846 this Fund are distributees with regard to the interest of the
1847 spouse or former spouse.

1848 4. "Direct rollover" is a payment by the Plan to the

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1849 eligible retirement plan specified by the distributee.

1850 (21) Rollovers from qualified plans.—

1851 (a) A member may roll over all or part of his or her
 1852 assets in another qualified plan to his or her chapter 175,
 1853 Florida Statutes, share account, provided all of the following
 1854 requirements are met:

1855 1. Some or all of the amount distributed from the other
 1856 plan is rolled over to this plan no later than the 60th day
 1857 after distribution was made from the plan or, if distributions
 1858 are made in installments, no later than the 60th day after the
 1859 last distribution was made.

1860 2. The amount rolled over to the share account does not
 1861 include any amounts contributed by the member to the plan on a
 1862 posttax basis.

1863 3. The rollover is made in cash.

1864 4. The member certifies that the distribution is eligible
 1865 for a rollover.

1866 5. Amounts which the Trustee accepts as a rollover to this
 1867 Fund shall, along with any earnings allocated to the Trustee, be
 1868 fully vested at all times.

1869
 1870 The rollover may also be made to this plan from an individual
 1871 retirement account qualified under Code Section 408 when the
 1872 individual retirement was merely used as a conduit for funds
 1873 from another qualified plan and the rollover is made in
 1874 accordance with the rules provided in subparagraphs 1.-5.

1875 Amounts rolled over may be segregated from other Fund assets.

1876 The Trustee shall separately account for gains, losses, and

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1877 administrative expenses on these rollovers as provided for in
 1878 paragraphs (5) (d) and (j). In addition, the Fund may accept the
 1879 direct transfer of a member's benefits from another qualified
 1880 retirement plan or Internal Revenue Code section 457 plan. The
 1881 Fund shall account for direct transfers in the same manner as a
 1882 rollover and shall obtain certification from the member that the
 1883 amounts are eligible for a rollover or direct transfer to this
 1884 Fund.

1885 (b) Transfer of accumulated leave.—

1886 1. Members eligible to receive accumulated sick leave,
 1887 accumulated vacation leave, or any other accumulated leave
 1888 payable upon separation shall have the leave transferred to the
 1889 Fund up to the amount permitted by law. Any additional amounts
 1890 shall be paid directly to the member. Members on whose behalf
 1891 leave has been transferred shall maintain the entire amount of
 1892 the transferred leave balance in the DROP or Share Account.

1893 2. If a member on whose behalf the City makes a
 1894 transferred leave balance to the Plan dies after retirement or
 1895 other separation, then any person who would have received a
 1896 death benefit had the member died in service immediately prior
 1897 to the date of retirement or other separation shall be entitled
 1898 to receive an amount equal to the transferred leave balance in a
 1899 lump sum. In the case of a surviving spouse or former spouse, an
 1900 election may be made to transfer the leave balance to an
 1901 eligible retirement plan in lieu of the lump sum payment.
 1902 Failure to make such an election by the surviving spouse or
 1903 former spouse within 60 days after the member's death shall be
 1904 deemed an election to receive the lump sum payment.

1905 3. The Board, by rule, shall prescribe the method for
1906 implementing the provisions of this paragraph.

1907 4. Amounts transferred under this section shall remain
1908 invested in the Pension Fund for a period of not less than 1
1909 year.

1910 (22) Actuarial assumptions.—The following actuarial
1911 assumptions shall be used for all purposes in connection with
1912 this Fund, effective October 1, 1998:

1913 (a) The period for amortizing current, future, and past
1914 actuarial gains or losses shall be 20 years.

1915 (b) The assumed investment rate of return shall be 8.25
1916 percent.

1917 (23) Prior firefighter service.—Unless otherwise
1918 prohibited by law, the years, or fractional parts of years, that
1919 a member previously served as a firefighter for any other
1920 municipal, county, ~~or~~ state, or federal fire department or
1921 district or any time served in the military service of the Armed
1922 Forces of the United States shall be added to the years of
1923 credited service, provided that the member contributes to the
1924 fund the sum that would have been contributed, based on the
1925 member's salary and the employee contribution rate in effect at
1926 the time that the credited service is requested, had the member
1927 been a member of this system for the years, or fractional parts
1928 of years, for which the credit is requested, plus the amount
1929 actuarially determined, such that the crediting of service does
1930 not result in any cost to the fund, plus payment of costs for
1931 all professional services rendered to the board in connection
1932 with the purchase of years of credited service.

1933 (a) Payment by the member of the required amount may be
 1934 made within 6 months after the request for credit and in one
 1935 lump sum payment, or the member may buy back this time over a
 1936 period equal to the length of time being purchased or 5 years,
 1937 whichever is greater, at an interest rate which is equal to the
 1938 Fund's actuarial assumption. A member may request to purchase
 1939 some or all years of eligible service.

1940 (b) The credit purchased under this section shall count
 1941 for all purposes, except vesting.

1942 (c) In no event, however, may credited service be
 1943 purchased pursuant to this section for prior service with any
 1944 other municipal, county, or state fire department or district,
 1945 if such prior service forms or will form the basis of a
 1946 retirement benefit or pension from another retirement system or
 1947 plan.

1948 (d) In the event that a member who is in the process of
 1949 purchasing service suffers a disability and is awarded a benefit
 1950 from the plan, the member shall not be required to complete the
 1951 buyback. However, contributions made prior to the date the
 1952 disability payment begins will be retained by the Fund.

1953 (e) If a member who has either completed the purchase of
 1954 service or is in the process of purchasing service terminates
 1955 before vesting, the member's contributions shall be refunded,
 1956 including the buyback contributions.

1957 (f) A request to purchase service may be made at any time
 1958 during the course of employment. A member may elect to purchase
 1959 permissive service more than one time; however, the maximum
 1960 years of service that may be purchased is 5 years.

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1961 (g) There shall be no fiscal impact to the City, now or in
 1962 the future, as a result of the purchase of credit for prior
 1963 firefighter service or military service.

1964 (24) Termination of the Fund.-Upon termination of the Plan
 1965 by the City for any reason, or because of a transfer, merger, or
 1966 consolidation of governmental units, services, or functions as
 1967 provided in chapter 121, Florida Statutes, or upon written
 1968 notice to the Board by the City that contributions under the
 1969 plan are being permanently discontinued, the rights of all
 1970 employees to benefits accrued to the date of such termination or
 1971 discontinuance and the amounts credited to the employees'
 1972 accounts are nonforfeitable. The Fund shall be distributed in
 1973 accordance with the following procedures:

1974 (a) The Board shall determine the date of distribution and
 1975 the asset value required to fund all the nonforfeitable
 1976 benefits, after taking into account the expenses of such
 1977 distribution. The Board shall inform the City if additional
 1978 assets are required, in which event the City shall continue to
 1979 financially support the Plan until all nonforfeitable benefits
 1980 have been funded.

1981 (b) The Board shall determine the method of distribution
 1982 of the asset value, whether distribution shall be by payment in
 1983 cash, by the maintenance of another or substituted trust fund,
 1984 by the purchase of insured annuities, or otherwise, for each
 1985 firefighter entitled to benefits under the plan, as specified in
 1986 paragraph (c).

1987 (c) The Board shall distribute the asset value as of the
 1988 date of termination in the manner set forth in this paragraph,

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1989 on the basis that the amount required to provide any given
1990 retirement income is the actuarially computed single-sum value
1991 of such retirement income, except that if the method of
1992 distribution determined under paragraph (b) involves the
1993 purchase of an insured annuity, the amount required to provide
1994 the given retirement income is the single premium payable for
1995 such annuity. The actuarial single-sum value may not be less
1996 than the employee's accumulated contributions to the Plan, with
1997 interest if provided by the Plan, less the value of any Plan
1998 benefits previously paid to the employee.

1999 (d) If there is asset value remaining after the full
2000 distribution specified in paragraph (c), and after payment of
2001 any expenses incurred with such distribution, such excess shall
2002 be returned to the City, less return to the state of the state's
2003 contributions, provided that, if the excess is less than the
2004 total contributions made by the City and the state to date of
2005 termination of the Plan, such excess shall be divided
2006 proportionately to the total contributions made by the City and
2007 the state.

2008 (e) The Board shall distribute, in accordance with the
2009 manner of distribution determined under paragraph (b), the
2010 amounts determined under paragraph (c).

2011 Section 2. This act shall take effect upon becoming a law.