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1
2 An act relating to the City of West Palm Beach, Palm
3 Beach County; amending chapter 24981, Laws of Florida,
4 1947, as amended; revising definitions relating to the
5 West Palm Beach Firefighters Pension Fund; providing
6 for chapter 175 funds to be used to reduce member
7 contributions to the fund for specified calendar
8 years; providing that the city shall make up certain
9 shortfalls in member contributions; providing for a
10 reduction in member contributions for 2 years;
11 revising the fixed rate for certain members; requiring
12 members to take a lump sum distribution of their
13 entire share account balance within a specified time
14 after their termination of employment in certain
15 circumstances; deleting a provision requiring members
16 to elect to participate in BackDROP within a specified
17 time or forfeit their benefits; providing a lower
18 interest rate for BackDROP benefits for retirements
19 after a certain date; revising BackDROP benefits;
20 revising availability of loans for certain members;
21 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, Laws of Florida,
26 1947, as amended by chapter 2010-246, Laws of Florida, is
27 amended to read:

28 Section 17. West Palm Beach Firefighters Pension Fund.—

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29 (1) Creation of fund.—There is hereby created a special
30 fund for the Fire Department of the City of West Palm Beach to
31 be known as the West Palm Beach Firefighters Pension Fund. All
32 assets of every description held in the name of the West Palm
33 Beach Firemen's Relief and Pension Fund and in the name of the
34 West Palm Beach Firefighters Pension Fund have been and shall
35 continue to be combined.

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

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

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

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

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

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

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

55 7. "Final average salary" means

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56 a. The average monthly salary paid to a member in the 3
57 best years of employment before retirement for all active
58 members who retire on or after May 13, 2012, who are not
59 eligible for normal retirement as of May 13, 2012, or do not
60 have a calculated BackDROP date of October 1, 2011, or earlier.

61 b. The average of the monthly salary paid a member in the
62 2 best years of employment, paid in and prior to the 23rd year
63 of credited service for retirements before May 13, 2012, for
64 members who are eligible for normal retirement as of May 13,
65 2012, or who have a calculated BackDROP date of October 1, 2011.

66 No active nonDROP member shall have any salary amounts paid
67 prior to October 1, 2000, used in the calculation of final
68 average salary. Those members whose final average salary would
69 include salary amounts paid prior to October 1, 2000, shall use
70 salary paid during the period from October 1, 2000, through
71 September 30, 2001, to replace any salary amounts paid prior to
72 October 1, 2000. The replacement salary from October 1, 2000,
73 through September 30, 2001, may range anywhere between 2 weeks
74 and 104 weeks, but shall only be enough salary as is sufficient
75 to replace the salary paid prior to October 1, 2000. The
76 replacement salary amounts from October 1, 2000, to September
77 30, 2001, shall be prorated based upon an annual salary.

78 8. "Firefighter" means any person employed in the
79 Department who is certified as a firefighter as a condition of
80 employment in accordance with the provisions of section 633.35,
81 Florida Statutes, whose duty it is to extinguish fires and
82 protect life and property. The term includes all certified,
83 supervisory, and command personnel whose duties include, in

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84 whole or in part, the supervision, training, guidance, and
85 management responsibilities of full-time firefighters, part-time
86 firefighters, or auxiliary firefighters but does not include
87 part-time firefighters or auxiliary firefighters whose duty it
88 is to extinguish fires and protect life and property.

89 9. "Fund" or "Pension Fund" means the West Palm Beach
90 Firefighters Pension Fund or the West Palm Beach Firemen's
91 Relief and Pension Fund, as applicable.

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

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

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

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

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111 the Treasurer of the State of Florida as a qualified public
112 depository.

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

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

117 16. "Salary" means:

118 ~~a. On and after October 1, 2001, "salary," for the purpose~~
119 ~~of pension contributions and benefit calculations, shall mean~~
120 ~~payments made to a firefighter by the City for: regular hours~~
121 ~~worked; step-up pay; longevity pay; all authorized leave time,~~
122 ~~which includes compensatory time used, earned personal leave~~
123 ~~used, emergency leave used, sick leave used, sick leave pay bank~~
124 ~~used, vacation time used, holiday time used, emergency leave,~~
125 ~~bereavement leave, and administrative leave; certification pay,~~
126 ~~which includes paramedic, hazardous material technician, special~~
127 ~~operations, dive rescue, fire service instructor, fire~~
128 ~~inspector, and SWAT certification pay; fire inspector standby~~
129 ~~pay; educational bonus incentive; pay received from the City~~
130 ~~during military training; and sick leave conversion when such~~
131 ~~leave is converted during the course of active employment. The~~
132 ~~definition of "salary" specifically excludes any lump sum~~
133 ~~payments for accumulated leave such as that received upon final~~
134 ~~payoff. Employees who are specifically excluded from bargaining~~
135 ~~unit recognition as set forth in Article 2, but who are members~~
136 ~~of the West Palm Beach Firefighters Pension Fund, shall continue~~
137 ~~to make contributions on management incentive benefits. This~~
138 ~~definition of compensation shall not include any duty employment~~

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139 ~~that is performed for other than the City of West Palm Beach per~~
 140 ~~Article 31, Salary Plan.~~

141 ~~b.~~ On and after January 1, 2007, "salary," for the purpose
 142 of pension contributions and benefit calculations, shall mean
 143 total cash remuneration paid by the City to a firefighter for
 144 services rendered, excluding payments for overtime and any lump-
 145 sum payments for accumulated leave such as accrued vacation
 146 leave, accrued sick leave, and accrued personal leave. Employees
 147 who are specifically excluded from bargaining unit recognition
 148 as set forth in Article 2, but who are members of the West Palm
 149 Beach Firefighters Pension Fund, shall continue to make
 150 contributions on management incentive benefits. This definition
 151 of compensation shall not include any duty employment that is
 152 performed for other than the City of West Palm Beach per Article
 153 31, Salary Plan. Beginning with salary paid after December 31,
 154 2008, and pursuant to Internal Revenue Code Section 414(u)(7),
 155 the definition of salary includes amounts paid by the City as
 156 differential wages to members who are absent from employment
 157 while in qualified military service.

158 17. "Service," "credited service," or "service credit"
 159 means the total number of years, and fractional parts of years,
 160 of employment of any member in the employ of the Department,
 161 omitting intervening years and fractional parts of years of
 162 service when the member was not employed by the City. However,
 163 no member shall receive credit for years, or fractional parts of
 164 years, of service for which the member has withdrawn his or her
 165 contributions to the Fund, unless the member repays into the
 166 Fund the contributions withdrawn, with interest, within 60

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167 months after reemployment. Further, a member may voluntarily
168 leave his or her contributions in the Fund for a period of 5
169 years after leaving the employ of the Department, pending the
170 possibility of his or her being rehired by the Department and
171 remaining employed for a period of not less than 3 years,
172 without losing credit for the time he or she has participated
173 actively as a firefighter. If he or she does not remain employed
174 for a period of at least 3 years as a firefighter with the
175 Department upon reemployment, within 5 years his or her
176 contributions shall be returned without interest in accordance
177 with paragraph (5)(i). In determining the aggregate number of
178 years of service of any member, the time spent in the military
179 service of the United States or United States Merchant Marine by
180 the member on leave of absence from the Department for such
181 reason shall be added to the years of service, provided such
182 time shall not exceed 5 years. Further, to receive credit for
183 such service the member must return to employment as a
184 firefighter of the City within 1 year after the date of release
185 from such active service. Effective January 1, 2007, a member
186 who dies or becomes disabled while serving on active duty
187 military service which intervenes the member's employment shall
188 be entitled to the rights of this section even though such
189 member was not reemployed by the City. A member who dies or
190 becomes disabled while on active duty military service shall be
191 treated as though reemployed the day before the member became
192 disabled or died, was credited with the service the member would
193 have been entitled to under this section, and then either died a

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194 nonduty death while employed or became disabled from a nonduty
195 disability.

196 (b) Gender and number.—The masculine gender includes the
197 feminine, and words of the singular with respect to persons
198 shall include the plural and vice versa.

199 (c) Board of Trustees created.—There is hereby created a
200 Board of Trustees, which shall be solely responsible for
201 administering the West Palm Beach Firefighters Pension Fund and
202 the West Palm Beach Firemen's Relief and Pension Fund. The Board
203 shall be a legal entity, with the power to bring and defend
204 lawsuits of every kind, nature, and description, and shall be
205 independent of the City to the extent required to accomplish the
206 intent, requirements, and responsibilities provided for in this
207 act and applicable law. The Board shall consist of five
208 trustees, as follows:

209 1. Two legal residents of the City, who shall be appointed
210 by the City. Effective for the current and future terms, each
211 resident-trustee shall serve as a trustee for a period of 4
212 years, unless sooner replaced by the City, at whose pleasure he
213 or she shall serve, and may succeed himself or herself as
214 trustee.

215 2. Two full-time firefighters shall be elected by a
216 majority of the firefighters who are members of the Fund.
217 Elections shall be held under such reasonable rules and
218 regulations as the Board shall from time to time adopt.
219 Effective for current and future terms, each member-trustee
220 shall serve as a trustee for a period of 4 years, unless he or
221 she sooner ceases to be a firefighter in the employ of the

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222 Department, whereupon the members shall choose a successor in
223 the same manner as the original appointment. Each member-trustee
224 may succeed himself or herself as trustee.

225 3. A fifth trustee shall be chosen by a majority of the
226 other four trustees. ~~Effective for current and future terms,~~ The
227 fifth person's name shall be submitted to the City, which shall,
228 as a ministerial duty, appoint such person to the Board as a
229 fifth trustee. Effective for current and future terms, the fifth
230 person shall serve as trustee for a period of 4 years, and may
231 succeed himself or herself as trustee.

232 (d) Board vacancy; how filled.—In the event a trustee
233 provided for in subparagraph (c)2. ceases to be a firefighter in
234 the employ of the Department, such trustee shall be considered
235 to have resigned from the Board. In the event a trustee provided
236 for in subparagraph (c)2. shall resign, be removed, or become
237 ineligible to serve as a trustee, the Board shall, by
238 resolution, declare the office of trustee vacated as of the date
239 of adoption of said resolution. If such a vacancy occurs in the
240 office of trustee within 90 days of the next succeeding election
241 for trustee, the vacancy shall be filled at the next regular
242 election for the next term; otherwise, the vacancy shall be
243 filled for the unexpired portion of the term by the members in
244 the same manner as an original appointment. In the event a
245 trustee provided for in subparagraph (c)1. or subparagraph (c)3.
246 shall resign, be removed, or become ineligible to serve as a
247 trustee, the Board shall, by resolution, declare the office of
248 trustee vacated as of the date of adoption of said resolution. A

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249 successor for the unexpired portion of the term shall be chosen
250 in the same manner as an original appointment.

251 (e) Board meetings; quorum; procedures.—The Board shall
252 hold meetings regularly, at least once in each quarter year, and
253 shall designate the time and place thereof. At any meeting of
254 the Board, three trustees shall constitute a quorum. Each
255 trustee shall be entitled to one vote on each question before
256 the Board and at least three concurring votes shall be required
257 for a decision by the Board at any of its meetings. The Board
258 shall adopt its own rules of procedure and shall keep a record
259 of its proceedings. All public records of the Fund shall be kept
260 and maintained as required by law. All meetings of the Board
261 shall be open to the public and shall be held as required by
262 law.

263 (f) Board chair.—The Board shall elect a chair from among
264 the trustees.

265 (g) Board secretary.—The Board shall elect a secretary
266 from among the trustees. The secretary shall keep a complete
267 minute book of the actions, proceedings, and hearings of the
268 Board.

269 (h) Membership.—All firefighters and all who hold a
270 position of firefighter in the employ of the Department shall be
271 members in the Fund. All firefighters, including the chief, who
272 were in the employ of the Department as of April 30, 1959, shall
273 be given credit for service rendered in the employ of the
274 Department prior to May 1, 1959. New members to the Fund are
275 required to undergo a physical examination for purposes of
276 determining preexisting conditions. This physical examination

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277 shall be conducted in conjunction with the City's postoffer,
278 preemployment physical examination. The Board's medical director
279 shall review the results of this physical examination and
280 provide notice to the Board and the member of any abnormal
281 findings of the examination. This physical examination will be
282 used for the purposes of establishing a physical profile of the
283 member for determining preexisting conditions and presumptive
284 illnesses as provided for in subsection (6). After review, if
285 further physical examination is required, such examination shall
286 be conducted at Board expense.

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

290 (2) Professional and clerical services.—

291 (a) Pension administrator.—The pension administrator of
292 the Fund shall be designated by the Board and shall carry out
293 its orders and directions.

294 (b) Legal counsel.—The City Attorney shall give advice to
295 the Board in all matters pertaining to its duties in the
296 administration of the Fund whenever requested, shall represent
297 and defend the Board as its attorney in all suits and actions at
298 law or in equity that may be brought against it, and shall bring
299 all suits and actions in its behalf that may be required or
300 determined by the Board. However, if the Board so elects, it may
301 employ independent legal counsel at the Fund's expense for the
302 purposes set forth in this act.

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

306 (d) Certified public accountant.—The Board shall employ,
307 at its expense, a certified public accountant to conduct an
308 independent audit of the Fund. The certified public accountant
309 shall be independent of the Board and the City.

310 (e) Additional professional, technical, or other
311 services.—The Board shall have the authority to employ such
312 professional, technical, or other advisors as required to carry
313 out the provisions of this act.

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

316 (a) Taxes of insurance companies.—The moneys returned to
317 the City as provided by chapter 175, Florida Statutes, shall be
318 used to fund the share account benefit described in paragraph
319 (5) (j). The chapter 175 funds received in calendar years 2012
320 and 2013 shall be utilized to reduce the employee contributions
321 to 13.1 percent. Effective beginning calendar year 2014, the
322 chapter 175 funds shall again be used in full to fund the share
323 account benefits provided for in paragraph (5) (j). The City
324 shall not opt out of participation in chapter 175, Florida
325 Statutes, or any similar statutory enactment unless exigent
326 circumstances exist, such as the bankruptcy of the City or
327 changes or amendments to the statute regarding extra benefits by
328 the Legislature. If any statutory changes are made by the
329 Legislature, the City and the Board may renegotiate the impact
330 of such changes, if necessary.

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331 (b) Member contributions.—Effective May 13, 2012, the
332 member shall contribute 25 percent of his or her salary to the
333 Fund. The full amount of the chapter 175 funds received in
334 calendar years 2012 and 2013 shall be used to reduce the
335 employee contributions to 13.1 percent. Effective October 1,
336 2013, the employee contributions shall be 13.1 percent, which
337 shall be deducted each pay period from the salary of each member
338 in the Department, and the chapter 175 funds received in
339 calendar year 2014 and thereafter shall once again be allocated
340 to the share accounts. If the chapter 175 funds are insufficient
341 to reduce the member's contributions to 13.1 percent, the city
342 shall make up the difference. Effective the first full payroll
343 ~~period after October 1, 2003, the member shall contribute 9.85~~
344 ~~percent of his or her salary to the Fund, which shall be~~
345 ~~deducted each pay period from the salary of each member in the~~
346 ~~Department. Effective the first full payroll period after~~
347 ~~October 1, 2004, the member shall contribute 18.2 percent of his~~
348 ~~or her salary to the Fund, which shall be deducted each pay~~
349 ~~period from the salary of each member in the Department.~~
350 ~~Effective the first full payroll period after January 1, 2005,~~
351 ~~the member shall contribute 18.7 percent of his or her salary to~~
352 ~~the Fund, which shall be deducted each pay period from the~~
353 ~~salary of each member in the Department. Effective the first~~
354 ~~full payroll period after January 1, 2006, the member shall~~
355 ~~contribute 19.2 percent of his or her salary to the Fund, which~~
356 ~~shall be deducted each pay period from the salary of each member~~
357 ~~in the Department. All amounts of member contributions that are~~
358 ~~deducted shall be immediately paid over to the Pension Fund. For~~

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359 contributions made on or after May 13, 2012, any contribution
 360 amount over 11.1 percent is to be used to purchase eligibility
 361 in the postretirement health insurance, excluding the amounts of
 362 chapter 175 funds used to offset the member contribution rate.
 363 ~~For contributions made before October 1, 2004, any contribution~~
 364 ~~amount over 6.85 percent is to be used to purchase eligibility~~
 365 ~~for participation in the postretirement health insurance~~
 366 ~~benefits; effective October 1, 2004, that amount will increase~~
 367 ~~to 15.2 percent.~~

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

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

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

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

382 (4) Custodian of funds.—All moneys and securities of the
 383 Fund may be deposited with the cash management coordinator of
 384 the City, acting in a ministerial capacity only, who shall be
 385 bonded and shall be liable in the same manner and to the same
 386 extent as he or she is liable for the safekeeping of funds for

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387 the City. However, any funds and securities so deposited with
388 the cash management coordinator shall be kept in a separate fund
389 by the cash management coordinator or clearly identified as
390 funds and securities of the Fund. In lieu thereof, the Board
391 shall deposit the funds and securities in a qualified public
392 depository designated by the Board. The cash management
393 coordinator or other depository shall receive all moneys due
394 said Fund from all sources whatsoever. All tax revenue received
395 pursuant to the provisions of chapter 175, Florida Statutes,
396 shall be deposited into the Fund no more than 5 days after
397 receipt. Member contributions withheld by the City on behalf of
398 a member shall be deposited into the Fund immediately.

399 (a) Disbursements from the Fund.—The Board may issue
400 drafts upon the Fund pursuant to this act and rules and
401 regulations prescribed by the Board, provided that such drafts
402 shall be issued in accordance with generally accepted accounting
403 procedures, American Institute of Certified Public Accountants
404 guidelines, and rules of the State of Florida Auditor General.
405 All such drafts shall be consecutively numbered, signed by the
406 chair and secretary, or other authorized fiduciary, and each
407 draft shall, upon its face, state the purpose for which it is
408 drawn. For this purpose, the chair and secretary shall be
409 bonded. The Board shall retain such drafts when paid, as
410 permanent vouchers for disbursements made, and no moneys shall
411 be otherwise drawn from the Fund. Payments from the Fund shall
412 be made only upon a specific or general motion or resolution
413 previously adopted by the Board authorizing such payment or
414 payments.

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415 (b) Investment of moneys.—The Board shall have the power
416 and authority to invest and reinvest the moneys of the Fund, and
417 to hold, purchase, sell, assign, transfer, and dispose of any
418 securities and investments held in said Fund. The aim of the
419 investment policies shall be to preserve the integrity and
420 security of Fund principal, to maintain a balanced investment
421 portfolio, to maintain and enhance the value of Fund principal,
422 and to secure the maximum total return on investments that is
423 consonant with safety of principal, provided that such
424 investments and reinvestments shall be limited to the following:

425 1. Direct obligations of the United States Government or
426 any agency thereof and debentures and other evidences of
427 indebtedness which are fully guaranteed by the United States
428 Government or any agency thereof for the payment of principal
429 and interest.

430 2. Direct obligations of the State of Florida.

431 3. In debt securities, preferred and common stocks and
432 mutual fund shares subject to the limitations set forth in this
433 section.

434 4. In time or savings accounts of a national bank, a state
435 bank insured by the Bank Insurance Fund, a savings and loan
436 association to the extent that deposits are guaranteed by the
437 Savings Association Insurance Fund which is administered by the
438 Federal Deposit Insurance Corporation, or a state or federally
439 chartered credit union whose share accounts are insured by the
440 National Credit Union Share Insurance Fund.

441 5. Of the total Fund principal in the pension or
442 retirement system, including the amounts deposited in banks or

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443 associations, the total thereof invested in preferred stocks
444 shall not aggregate more than 5 percent, and the total amount
445 thereof invested in common stocks and mutual fund shares shall
446 not aggregate more than 70 percent. Percentages shall be based
447 on market value at the end of each reporting period (September
448 30).

449 6. In real property or real estate investments, such
450 investments shall not aggregate more than 15 percent of the
451 market value of the total Fund principal in the pension or
452 retirement system.

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

456 8. Any investments permitted by sections 112.661 and
457 215.47(1)-(8), (10), and (16), Florida Statutes, up to the
458 limits stated therein.

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

461 a. All corporate and association securities and mutual
462 fund shares shall be issued by a corporation or other legal
463 person, incorporated or otherwise, organized within the United
464 States and domiciled therein to the extent required by section
465 175.071(1)(b), Florida Statutes.

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

469 c. All stocks issued or guaranteed by a corporation shall
470 be listed on any one or more of the major stock exchanges. In

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471 the case of bonds, at a minimum, 80 percent of bonds purchased
472 for the Fund shall hold a rating in one of the four highest
473 classifications by a major rating service. Said bonds and
474 preferred stocks that are convertible into common stocks shall
475 be considered common stocks and the purchase of same shall be
476 limited by the provisions of subparagraph 5.

477 d. The Board shall engage the services of professional
478 investment counsel to assist and advise the trustees in the
479 performance of their duties.

480 e. At least once every 3 years, the Board shall retain an
481 independent consultant professionally qualified to evaluate the
482 performance of its professional money manager or investment
483 counsel. The independent consultant shall make recommendations
484 to the Board at its next regularly scheduled meeting.

485 f. Notwithstanding anything else in this subsection and as
486 provided in section 215.473, Florida Statutes, the Board must
487 identify and publicly report any direct or indirect holdings it
488 may have in any scrutinized company, as defined in that section.
489 Beginning January 1, 2010, the Board must proceed to sell,
490 redeem, divest, or withdraw all publicly traded securities it
491 may have directly in such company. The divestiture of any such
492 security must be completed by September 30, 2010. The Board and
493 its named officers or investment advisors may not be deemed to
494 have breached their fiduciary duty in any action taken to
495 dispose of any such security, and the Board shall have
496 satisfactorily discharged the fiduciary duties of loyalty,
497 prudence, and sole and exclusive benefit to the participants of
498 the Fund and their beneficiaries if the actions it takes are

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499 consistent with the duties imposed by section 215.473, Florida
500 Statutes, as provided for in section 175.071(8), Florida
501 Statutes, and the manner of the disposition, if any, is
502 reasonable as to the means chosen. For purposes of determining
503 which companies are scrutinized companies, the Board may utilize
504 the list of scrutinized companies as developed by the Florida
505 State Board of Administration. No person may bring any civil,
506 criminal, or administrative action against the Board or any
507 employee, officer, director, or advisor of the Fund based upon
508 the divesture of any security pursuant to this subsection.

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

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

514 (e) Restrictions on the use of assets of Fund.—The assets
515 of the Fund shall be used only for the payment of benefits and
516 other disbursements authorized by this act and shall be used for
517 no other purpose.

518 (5) Service pension.—

519 (a) Normal retirement.—

520 1. Any member who is actively employed on and after
521 October 1, 2003, excluding members in the DROP, who has attained
522 age 50 years and who has acquired 15 or more years of service
523 credit; who has attained age 55 years and who has acquired 10 or
524 more years of service credit; or who has acquired 26 years of
525 service credit without regard to age shall, upon application

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526 filed with the Board, be retired and shall be entitled to a
527 monthly pension for the remainder of his or her life.

528 2. The normal retirement benefit is calculated based upon
529 the sum of sub-subparagraphs a. and b. to a maximum of 92
530 percent of salary. However, in all cases, a member is entitled
531 to at least 2 percent per year of credited service.

532 a. Effective on and after May 13, 2012, for all active
533 members who retire on or after May 13, 2012, and who are not
534 eligible for normal retirement as of May 13, 2012, the benefit
535 is equal to 3 percent of final average earnings times credited
536 service earned on and after May 13, 2012; and

537 b. Effective for service earned before May 13, 2012, for
538 retirements before May 13, 2012, or for members who are eligible
539 for normal retirement as of May 13, 2012, the benefit is equal
540 to 4 percent of final average salary times credited service
541 subject to a maximum of 92 percent of final average salary.
542 ~~However, in all cases, members shall be entitled to at least 2~~
543 ~~percent per year of credited service.~~

544 ~~3.2.~~ 3-percent ~~4-percent~~ benefit accrual factor in
545 subparagraph 2. 1. is contingent on and subject to the adoption
546 and maintenance of the assumptions set forth in subsection (22).
547 If such assumptions are modified by legislative, judicial, or
548 administrative agency action, and the modification results in
549 increased City contributions to the Pension Fund, the 3-percent
550 ~~4-percent~~ accrual factor in subparagraph 2. 1. shall be
551 automatically decreased prospectively, from the date of the
552 action, to completely offset the increase in City contributions.
553 However, in no event shall the benefit accrual factor in

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554 subparagraph 2. ~~1.~~ be adjusted below 2.5 ~~3.5~~ percent. To the
 555 extent that the benefit accrual factor is less than 3 ~~4~~ percent,
 556 the supplemental pension distribution calculation under
 557 paragraph (d) shall be adjusted for employees who retire on or
 558 after October 1, 1998, and those employees who were members of
 559 the DROP on October 1, 1998. The adjustment shall be to decrease
 560 the minimum return of 8.25 percent needed to afford the
 561 supplemental pension distribution, when the amount of the
 562 reduction is zero if an employee has been credited with 16 or
 563 more years with the 3-percent benefit accrual factor or 1.25
 564 percent if an employee has been credited with no more than a
 565 2.5-percent benefit accrual factor. If an employee has been
 566 credited with less than 16 years at the 3-percent benefit
 567 accrual factor, then the accumulated amount over 2.5 percent for
 568 each year of service divided by .5 percent divided by 16
 569 subtracted from 1 multiplied by 1.25 percent is the reduction
 570 from 8.25 percent. An example of the calculation of the minimum
 571 return for supplemental pension distribution as described above
 572 is set forth in Appendix B to the collective bargaining
 573 agreement between the City of West Palm Beach and the West Palm
 574 Beach Association of Firefighters, Local 727-IAFF, October 1,
 575 2003-September 30, 2006.

576 (b) Vested deferred retirement.—A member who leaves the
 577 employ of the Department with 10 or more years of credited
 578 service who is not eligible for any other retirement benefit
 579 under this act shall be entitled to the applicable pension that
 580 is in effect on the member's date of termination as provided for
 581 in paragraph (a) or paragraph (c). Payment of this pension shall

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582 begin the first day of the calendar month following the month in
583 which the member's application is filed with and accepted by the
584 Board on or after attainment of age 50 years. If applicable, the
585 amount of the pension shall be determined in accordance with
586 paragraph (c).

587 (c) Early retirement.—Any member may retire from the
588 service of the Department as of the first day of any calendar
589 month which is prior to the member's normal retirement date but
590 subsequent to the date as of which the member has both attained
591 the age of 50 and has been a member of this Fund for 10
592 continuous years. In the event of early retirement, the monthly
593 amount of retirement income shall be computed as described in
594 paragraph (a), taking into account his or her credited service
595 to the date of actual retirement and his or her final average
596 salary as of such date. The amount of retirement income shall be
597 actuarially reduced to take into account the member's younger
598 age and earlier commencement of retirement income benefits. The
599 early retirement reduction shall be 3 percent for each year by
600 which the member's age at retirement preceded the member's
601 normal retirement age.

602 (d) Supplemental pension distribution.—

603 1.a. The actuary for the Pension Fund shall determine the
604 rate of investment return earned on Pension Fund assets during
605 the 12-month period ending each September 30. The rate
606 determined shall be the rate reported in the most recent
607 actuarial report submitted pursuant to part VII of chapter 112,
608 Florida Statutes.

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609 b. The actuary for the Pension Fund shall determine the
610 actuarial present value, as of September 30, of future pension
611 payments to eligible persons, as described in subparagraph 3.,
612 who are then being paid a pension. The actuarial present values
613 shall be calculated using an interest rate of 7 percent per year
614 compounded yearly and a mortality table as approved by the Board
615 of Trustees and as used in the most recent actuarial report
616 submitted pursuant to part VII of chapter 112, Florida Statutes.

617 c. A distribution amount shall be determined as of each
618 September 30. For distributions made after October 1, 1998,
619 there shall be two different calculations to determine the
620 distribution amount. For those employees who retire on or after
621 October 1, 1998, or who are part of the DROP on or after October
622 1, 1998, the distribution amount shall be equal to factor (i)
623 for each applicable member multiplied by the sum of factor (ii)
624 and the positive difference, if any, between factor (iii) and
625 8.25 percent. For those employees who have retired before
626 October 1, 1998, except as provided in this sub-subparagraph,
627 the distribution amount shall be equal to factor (i) for each
628 applicable member multiplied by the sum of factor (ii) and the
629 positive difference, if any, between factor (iii) and 7 percent.
630 For purposes of both calculations, factor (i) is the actuarial
631 present value determined in sub-subparagraph b. for the
632 respective group. Factor (ii) is one-half of the investment
633 return rate in sub-subparagraph a. in excess of 9 percent.
634 Factor (iii) is the rate of investment return in sub-
635 subparagraph a., not to exceed 9 percent. The distribution
636 amount shall not exceed accumulated net actuarial experience

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637 from all pension liabilities and assets. If the net actuarial
638 experience is favorable, cumulatively, commencing with the
639 experience for the year ended September 30, 1985, after offset
640 for all prior supplemental distributions, the supplemental
641 distribution may be made. If the net actuarial experience is
642 unfavorable, cumulatively, commencing with the experience for
643 the year ended September 30, 1985, after offset for all prior
644 supplemental distributions, no supplemental distribution may be
645 made, and the City must amortize the loss until it is offset by
646 cumulative favorable experience.

647
648 If an actuarial report submitted as provided in this paragraph
649 is not state accepted prior to distribution, and if a deficiency
650 to the Pension Fund results, the deficiency shall be made up
651 from the next available supplemental pension distribution,
652 unless sooner made up by agreement between the Board of Trustees
653 and the City. No such deficiency shall be permitted to continue
654 for a period of greater than 3 years from the date of payment of
655 the supplemental pension distribution which resulted in the
656 deficiency.

657 2. The Board of Trustees shall determine annually if there
658 is to be a supplemental pension distribution. The supplemental
659 pension distribution is that portion of the distribution amount,
660 as defined in sub-subparagraph 1.c., to be distributed to
661 eligible persons.

662 3. Eligible persons are:

- 663 a. Pensioners.
664 b. Surviving spouses.

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- 665 c. Surviving dependent children.
- 666 d. Surviving dependent parents.
- 667 e. Pensioners' estates for the year following death only.

668

669 Eligible persons are initially eligible if they have been in
 670 receipt of a pension for at least 1 year on the first
 671 distribution date following their retirement. A survivor
 672 beneficiary of a deceased retired member shall be considered to
 673 have been in receipt of a pension for at least 1 year if at
 674 least 12 monthly pension payments have been made on account of
 675 the retirement. A surviving spouse may count the retirement
 676 period, if any, of the deceased member toward the 1-year
 677 requirement. Surviving spouses, children, and parents and
 678 retired members who receive pension adjustments under the prior
 679 escalator clause are not eligible for the supplemental pension
 680 distribution.

681 4. The supplemental pension distribution dates shall be
 682 the April 1 following the effective date of this subsection and
 683 each April 1 thereafter. Each eligible person shall be paid his
 684 or her allocated portion of the applicable supplemental pension
 685 distribution amount from the preceding September 30. A
 686 pensioner's estate is entitled to a pro rata share of the
 687 deceased retiree's supplemental pension distribution based on
 688 the number of months that the deceased retiree received a
 689 pension during the year ending the September 30 prior to the
 690 pensioner's death after initial eligibility.

691 5. Each supplemental pension distribution amount shall be
 692 allocated among the eligible persons in the proportion that an

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693 eligible person's supplemental pension distribution points bears
694 to the aggregate amount of supplemental pension distribution
695 points of all eligible persons. An eligible person shall be
696 credited with supplemental pension distribution points as
697 follows:

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

703 b. Maximum service credit shall be 26 years.

704 c. Allocations for surviving spouses and surviving
705 dependent children who are eligible to receive supplemental
706 pension distributions shall be 75 percent of the years of
707 service earned by the pensioner. Allocations for duty death
708 beneficiaries (surviving spouse and surviving children) shall be
709 based upon 75 percent of 26 years of service.

710 (e) Payment of benefits.—

711 1. First payment.—Service pensions shall be payable on the
712 first day of each month. The first payment shall be payable on
713 the first day of the month coincident with or next following the
714 date of retirement, or death, provided the member has completed
715 the applicable age and service requirements.

716 2. Last payment.—The last payment shall be the payment due
717 next preceding the member's death, except that payments shall be
718 continued to the designated beneficiary or beneficiaries if a
719 10-year certain benefit, a joint and survivor option, or
720 beneficiary benefits, as applicable, are payable.

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721 (f) Normal form of retirement income.—

722 1. Married member.—The normal form of retirement benefit
723 for a married member or for a member with a dependent child or
724 children or parent or parents shall be a service pension and
725 beneficiary benefits. The service benefit shall provide monthly
726 payments for the life of the member. Thereafter, beneficiary
727 benefits shall be paid as provided in subsection (7).

728 2. Unmarried member.—The normal form of retirement benefit
729 for an unmarried member without a dependent child or children or
730 parent or parents shall be a 10-year certain benefit. This
731 benefit shall pay monthly benefits for the member's lifetime. In
732 the event the member dies after his or her retirement but before
733 receiving retirement benefits for a period of 10 years, the same
734 monthly benefit shall be paid to the beneficiary or
735 beneficiaries as designated by the member for the balance of
736 such 10-year period or, if no beneficiary is designated, to
737 heirs at law, or estate of the member, as provided in section
738 175.181, Florida Statutes.

739 (g) Optional forms of retirement income.—

740 1.a. In the event of normal, early, or disability
741 retirement, in lieu of the normal form of retirement income
742 payable as specified in paragraph (a), paragraph (b), paragraph
743 (c), or subsection (6) and in lieu of the beneficiary benefits
744 as specified in subsection (7), a member, upon written request
745 to the Board and subject to the approval of the Board, may elect
746 to receive a retirement income of equivalent actuarial value
747 payable in accordance with one of the following options:

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

751 (II) Joint and survivor option.—A retirement income of a
752 modified monthly amount, payable to the member during the joint
753 lifetime of the member and a dependent joint pensioner
754 designated by the member, and following the death of either of
755 them, 100 percent, 75 percent, 66-2/3 percent, or 50 percent of
756 such monthly amounts, payable to the survivor for the lifetime
757 of the survivor.

758 b. The member, upon electing any option of this paragraph,
759 shall designate the joint pensioner or beneficiary or
760 beneficiaries to receive the benefit, if any, payable in the
761 event of his or her death, and will have the power to change
762 such designation from time to time; but any such change shall be
763 deemed a new election and shall be subject to approval by the
764 Board. Such designation shall name a joint pensioner or one or
765 more primary beneficiaries where applicable. If a member has
766 elected an option with a joint pensioner or beneficiary and his
767 or her retirement income benefits have commenced, he or she may
768 thereafter change the designated joint pensioner or beneficiary
769 only twice. Notwithstanding any other provision of this section,
770 a retired member may change his or her designation of joint
771 annuitant or beneficiary up to two times as provided in section
772 175.333, Florida Statutes, without the approval of the Board or
773 the current joint annuitant or beneficiary. The retiree is not
774 required to provide proof of the good health of the joint
775 annuitant or beneficiary being removed, and the joint annuitant

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776 or beneficiary being removed need not be living. Any retired
777 member who desires to change his or her joint annuitant or
778 beneficiary shall file with the Board a notarized notice of such
779 change. Upon receipt of a completed change of joint annuitant
780 form or such other notice, the Board shall adjust the member's
781 monthly benefit by the application of actuarial tables and
782 calculations developed to ensure that the benefit paid is the
783 actuarial equivalent of the present value of the member's
784 current benefit and there is no impact to the plan.

785 c. The consent of a member's joint pensioner or
786 beneficiary to any such change shall not be required.

787 d. For any additional changes in beneficiaries, the Board
788 may request such evidence of the good health of the joint
789 pensioner that is being added as it may require; and the amount
790 of the retirement income payable to the member upon the
791 designation of a new joint pensioner shall be actuarially
792 redetermined, taking into account the age and sex of the former
793 joint pensioner, the new joint pensioner, and the member. Each
794 such designation shall be filed with the Board. In the event
795 that no designated beneficiary survives the member, such
796 benefits as are payable in the event of the death of the member
797 subsequent to his or her retirement shall be paid as provided in
798 subparagraph (h)2.

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

802 a. If a member dies prior to his or her normal retirement
803 date or early retirement date, whichever first occurs,

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804 retirement benefits shall be paid in accordance with subsection
805 (7).

806 b. If the designated beneficiary or beneficiaries or joint
807 pensioner dies before the member's retirement, the option
808 elected shall be canceled automatically and a retirement income
809 of the normal form and amount shall be payable to the member
810 upon the member's retirement as if the election had not been
811 made, unless a new election is made in accordance with the
812 provisions of this paragraph or a new beneficiary is designated
813 by the member prior to retirement.

814 c. If a member continues in the employ of the Department
815 after meeting the age and service requirements set forth in
816 paragraph (a) or paragraph (c) and dies prior to the member's
817 actual retirement, and while an option made pursuant to this
818 subparagraph is in effect, monthly retirement income payments
819 shall be paid, under the option, to a beneficiary or
820 beneficiaries designated by the member in the amount or amounts
821 computed as if the member has retired under the option on the
822 date on which the member's death occurred.

823 3. No member may make any change in his or her retirement
824 option after the date of cashing or depositing the first
825 retirement check.

826 (h) Designation of beneficiary.—

827 1. Each member may, on a form provided for that purpose,
828 signed and filed with the Board, designate a beneficiary or
829 beneficiaries to receive the benefit, if any, which may be
830 payable in the event of the member's death; and each designation
831 may be revoked by such member by signing and filing with the

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832 Board a new designation of beneficiary form. However, after the
833 benefits have commenced, a retirant may change his or her
834 designation of joint annuitant or beneficiary only twice. If the
835 retirant desires to change his or her joint annuitant or
836 beneficiary, the retirant shall file with the Board a notarized
837 notice of such change either by registered letter or on a form
838 as provided by the Board. Upon receipt of a completed change of
839 joint annuitant form or such other notice, the Board shall
840 adjust the member's monthly benefit by the application of
841 actuarial tables and calculations developed to ensure that the
842 benefit paid is the actuarial equivalent of the present value of
843 the member's current benefit.

844 2. Absence or death of beneficiary.—If a deceased member
845 fails to name a beneficiary in the manner prescribed in
846 subparagraph 1., or if the beneficiary or beneficiaries named by
847 a deceased member predecease the member, the beneficiary
848 benefits, if any, which may be payable with respect to such
849 deceased member may be paid, in the discretion of the Board to:

850 a. The spouse or dependent child or children of the
851 member;

852 b. The dependent living parent or parents of the member;
853 or

854 c. The estate of the member.

855 (i) Refund of contributions.—In the event a member leaves
856 the employ of the Department or dies with less than 10 years of
857 credited service, and no service pension, disability pension, or
858 beneficiary benefit is payable, the contributions made by him or
859 her to the Fund shall be refunded, without interest (less any

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860 | disability payments paid to the member), to the member or, in
 861 | the event of death, to the beneficiary or to the member's
 862 | estate.

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

864 | 1. Individual member accounts.—A separate account shall be
 865 | established and maintained in each member's name effective on or
 866 | after October 1, 1988.

867 | 2. Share account funding.—

868 | a. Each individual member account shall be credited with a
 869 | pro rata share of all of the moneys received from chapter 175,
 870 | Florida Statutes, tax revenues in June 1988 and thereafter. For
 871 | the chapter 175 funds received in calendar years 2012 and 2013,
 872 | the full amount of the chapter 175 funds shall be used to reduce
 873 | the employee contributions to 13.1 percent as provided for in
 874 | subsection (3) (a). Effective October 1, 2013, the employee
 875 | contributions shall be 13.1 percent and the chapter 175 money
 876 | received in calendar year 2014 and thereafter shall be allocated
 877 | to the share accounts.

878 | b. In addition, any forfeitures as provided in
 879 | subparagraph 5. shall be credited to the individual member
 880 | accounts in accordance with the formula set forth in
 881 | subparagraph 3.

882 | 3. Annual allocation of accounts.—

883 | a. Moneys shall be credited to each individual member
 884 | account in an amount directly proportionate to the number of pay
 885 | periods for which the member was paid compared to the total
 886 | number of pay periods for which all members were paid, counting
 887 | the pay periods in the calendar year preceding the date for

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888 | which chapter 175, Florida Statutes, tax revenues were received.
889 | Share account allocations made on and after October 1, 2004,
890 | shall be made to each individual share account.

891 | b. At the end of each fiscal quarter, each individual
892 | account shall be adjusted to reflect the earnings or losses
893 | resulting from investment, as well as reflecting costs, fees,
894 | and expenses of administration.

895 | c. Vested participants have the option to select one of
896 | three methods to credit investment earnings to their account.
897 | The method may be changed each year effective October 1;
898 | however, the method must be elected prior to October 1. The
899 | methods are:

900 | (I) The investment earnings or losses credited to the
901 | individual member accounts shall be in the same percentage as
902 | are earned or lost by the total investment earnings or losses of
903 | the Fund as a whole, unless the Board dedicates a separate
904 | investment portfolio for chapter 175, Florida Statutes, share
905 | accounts, in which case the investment earnings or losses shall
906 | be measured by the investment earnings or losses of the separate
907 | investment portfolio;

908 | (II) A fixed annual rate of 8.25 percent for members who
909 | reached normal retirement age on or before May 13, 2012, or
910 | members that have a calculated BackDROP date of October 1, 2011,
911 | or earlier. Effective May 13, 2012, the fixed rate is 4 percent
912 | for members who retire on or after May 13, 2012; or

913 | (III) A percentage of the share account assets to be
914 | credited with earnings or losses in accordance with sub-sub-
915 | subparagraph (I) and a corresponding percentage of the share

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

919 d. Costs, fees, and expenses of administration shall be
920 debited from the individual member accounts on a proportionate
921 basis, taking the cost, fees, and expenses of administration of
922 the Fund as a whole, multiplied by a fraction, the numerator of
923 which is the total assets in all individual member accounts and
924 the denominator of which is the total assets of the Fund as a
925 whole. The proportionate share of the costs, fees, and expenses
926 shall be debited from each individual member account on a pro
927 rata basis in the same manner as chapter 175, Florida Statutes,
928 tax revenues are credited to each individual member account
929 (i.e., based on pay periods).

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

935 a. The member is eligible to receive, and is receiving, a
936 service pension as provided in this subsection;

937 b. The member has 5 or more years of credited service and
938 is eligible to receive, and is receiving, either:

939 (I) A nonduty disability pension as provided in paragraph
940 (6) (a); or

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

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943 c. The member has any credited service and is eligible to
944 receive, and is receiving, either:

945 (I) A duty disability pension as provided in paragraph
946 (6) (c); or

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

949 5. Forfeitures.—Any member who has less than 10 years of
950 credited service and who is not eligible for payment of benefits
951 after termination of employment with the City shall forfeit his
952 or her individual member account. The amounts credited to said
953 individual member account shall be redistributed to the other
954 individual member accounts in the same manner as chapter 175,
955 Florida Statutes, tax revenues are credited (i.e., based on pay
956 periods). However, the assets shall first be used to ensure that
957 the former member's refund of contributions has not actuarially
958 adversely impacted the payment for the extra benefits. If there
959 has been an adverse impact, the shortfall shall be made up first
960 before the amounts are reallocated to active members.

961 6. Payment of benefits.—The normal form of benefit payment
962 shall be a lump sum payment of the entire balance of the
963 individual member account. Effective on or after May 13, 2012,
964 members must take a lump sum distribution of their entire share
965 account balance within 6 months after their termination of
966 employment. For members who reached normal retirement age on or
967 before May 13, 2012, or who had a calculated BackDROP date of
968 October 1, 2011, or earlier, the member may leave his or her
969 money in the account until the latest day under subsection (18),
970 choose a lump sum distribution; or, upon the written election of

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971 the member, upon a form prescribed by the Board, payment may be
972 made either by:

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

976 b. Annuity.—The account balance shall be paid out in
977 monthly installments over the lifetime of the member or until
978 the entire balance is exhausted. The monthly amount paid shall
979 be determined by the Fund's actuary in accordance with
980 selections made by the member in a form provided by the Board.

981 7. Death of a member.—If a member dies and is eligible for
982 benefits from the individual member account, the entire balance
983 of the individual member account shall be paid in a lump sum to
984 the beneficiaries designated in accordance with paragraph (h).
985 If a member fails to designate a beneficiary or, if the
986 beneficiary predeceases the member, the entire balance shall be
987 paid in a lump sum in the following order:

988 a. To the spouse;

989 b. If there is no spouse or the spouse is not alive, to
990 the member's surviving child or children on a pro rata basis;

991 c. If there are no children or no child is alive, to the
992 member's parent or parents; or

993 d. If no parent is alive, to the estate of the member.

994 (k) Deferred Retirement Option Plan (DROP).—Effective upon
995 the ratification of the collective bargaining agreement between
996 the City of West Palm Beach and the West Palm Beach Association
997 of Firefighters, Local 727-IAFF, October 1, 2003–September 30,
998 2006, no new members may enter into the DROP. Existing DROP

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999 members on the ratification date shall have the option to remain
1000 in the DROP for the remainder of their individual 5-year terms.

1001 1. Eligibility to participate in the DROP.—

1002 a. Any member who is eligible to receive an early or
1003 normal retirement pension may participate in the DROP. Members
1004 shall elect to participate by applying to the Board of Trustees
1005 on a form provided for that purpose.

1006 b. Election to participate shall be forfeited if not
1007 exercised within the first 35 years of combined credited
1008 service.

1009 c. A member shall not participate in the DROP beyond the
1010 time of attaining 37 years of service and the total years of
1011 participation in the DROP shall not exceed 5 years. For example:

1012 (I) Members with 32 years of credited service at the time
1013 of entry shall participate for only 5 years.

1014 (II) Members with 33 years of credited service at the time
1015 of entry shall participate for only 4 years.

1016 (III) Members with 34 years of credited service at the
1017 time of entry shall participate for only 3 years.

1018 (IV) Members with 35 years of credited service at the time
1019 of entry shall participate for only 2 years.

1020 d. Upon a member's election to participate in the DROP, he
1021 or she shall cease to be a member and shall no longer accrue any
1022 benefits under the Pension Fund, except for the benefits
1023 provided under paragraph (j) of this subsection, chapter 175,
1024 Florida Statutes, share accounts. For all Fund purposes, the
1025 member becomes a retirant, except that a DROP participant shall
1026 continue to receive shares of the chapter 175, Florida Statutes,

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1027 money in accordance with paragraph (j), chapter 175, Florida
1028 Statutes, share accounts. The amount of credited service and
1029 final average salary shall freeze as of the date of entry into
1030 the DROP.

1031 2. Amounts payable upon election to participate in the
1032 DROP.—

1033 a. Monthly retirement benefits that would have been
1034 payable had the member terminated employment with the Department
1035 and elected to receive monthly pension payments shall be paid
1036 into the DROP and credited to the retirant. Payments into the
1037 DROP shall be made monthly over the period the retirant
1038 participates in the DROP, up to a maximum of 60 months.

1039 b. Participants have the option to select one of three
1040 methods to credit investment earnings to their account.
1041 Investment earnings shall be credited on a quarterly basis. The
1042 method may be changed each year effective October 1; however,
1043 the method must be elected prior to October 1. The methods are:

1044 (I) Earnings using the rate of investment return earned on
1045 Pension Fund assets as reported by the Fund's investment
1046 monitor. DROP assets are commingled with the Pension Fund assets
1047 for investment purposes;

1048 (II) A fixed rate of 8.25 percent for members who reached
1049 normal retirement age on or before May 13, 2012; or

1050 (III) A percentage of the DROP account assets to be
1051 credited with earnings or losses in accordance with sub-sub-
1052 subparagraph (I) and a corresponding percentage of the DROP
1053 account assets credited in accordance with sub-sub-subparagraph

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1054 (II). The combined total percentage invested under this sub-sub-
1055 subparagraph must equal 100 percent.

1056
1057 However, if a member does not terminate employment at the end of
1058 participation in the DROP, interest credit shall cease on the
1059 balance.

1060 c. No payments shall be made from the DROP until the
1061 member terminates employment with the Department.

1062 d. Upon termination of employment, participants in the
1063 DROP shall receive the balance of the DROP account in accordance
1064 with the following rules:

1065 (I) Members may elect to begin to receive payment upon
1066 termination of employment or defer payment of the DROP until the
1067 latest day under sub-sub-subparagraph (III).

1068 (II) Payments shall be made in either:

1069 (A) Lump sum.—The entire account balance shall be paid to
1070 the retirant upon approval of the Board of Trustees.

1071 (B) Installments.—The account balance shall be paid out to
1072 the retirant in three equal payments paid over 3 years, the
1073 first payment to be made upon approval of the Board of Trustees.

1074 (C) Annuity.—The account balance shall be paid out in
1075 monthly installments over the lifetime of the member or until
1076 the entire balance is exhausted. Monthly amount paid will be
1077 determined by the Fund's actuary in accordance with selections
1078 made by the member in a form provided by the Board of Trustees.

1079 (III) Any form of payment selected by a member must comply
1080 with the minimum distribution requirements of the IRC 401(a)(9),
1081 and are subject to the requirements of subsection (18).

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1082 (IV) The beneficiary of the DROP participant who dies
1083 before payments from DROP begin shall have the same right as the
1084 participant in accordance with subsection (7).

1085 e. Costs, fees, and expenses of administration shall be
1086 debited from the individual member accounts on a proportionate
1087 basis, taking the cost, fees, and expenses of administration of
1088 the Fund as a whole, multiplied by a fraction, the numerator of
1089 which is the total assets in all individual member accounts and
1090 the denominator of which is the total assets of the Fund as a
1091 whole.

1092 3. Loans from the DROP.—

1093 a. Availability of loans.—

1094 (I) Loans are available to members only after termination
1095 of employment, provided the member had participated in the DROP
1096 for a period of 12 months.

1097 (II) Loans may only be made from a member's own account.

1098 (III) There may be no more than one loan at a time.

1099 b. Amount of loan.—

1100 (I) Loans may be made up to a maximum of 50 percent of
1101 account balance.

1102 (II) The maximum dollar amount of a loan is \$50,000,
1103 reduced by the highest outstanding loan balance during the last
1104 12 months.

1105 (III) The minimum amount of a loan is \$5,000.

1106 c. Limitation on loans.—Loans shall be made from the
1107 amounts paid into the DROP and earnings thereon.

1108 d. Term of loan.—

1109 (I) A loan must be for at least 1 year.

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1110 (II) A loan shall be for no longer than 5 years.
 1111 e. Loan interest rate.—
 1112 (I) The interest rate shall be fixed at the time the loan
 1113 is originated for the entire term of the loan.
 1114 (II) The interest rate shall be equal to the lowest prime
 1115 rate published by the Wall Street Journal on the last day of
 1116 each calendar quarter preceding the date of the loan
 1117 application.
 1118 f. Defaults of loans.—
 1119 (I) A loan shall be in default if 2 consecutive months of
 1120 repayments are missed or if a total of 4 months of repayments is
 1121 missed.
 1122 (II) Upon default, the entire balance of the loan becomes
 1123 due and payable immediately.
 1124 (III) If a loan in default is not repaid in full
 1125 immediately, the loan may be canceled and the outstanding
 1126 balance treated as a distribution, which may be taxable.
 1127 (IV) Upon default of a loan, a member shall not be
 1128 eligible for additional loans.
 1129 g. Miscellaneous provisions.—
 1130 (I) All loans must be evidenced by a written loan
 1131 agreement signed by the member and the Board of Trustees. The
 1132 agreement shall contain a promissory note.
 1133 (II) A member's spouse must consent in writing to the
 1134 loan. The consent shall acknowledge the effect of the loan on
 1135 the member's account balance.
 1136 (III) Loans shall be considered general assets of the
 1137 Fund.

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1138 (IV) Loans shall be subject to administrative fees to be
1139 set by the Board of Trustees.

1140 4. After-tax contributions to the DROP.—

1141 a. A member may make after-tax contributions to the DROP.
1142 The maximum amount that may be contributed is the lesser of:

1143 (I) The IRS 415(c) limit.

1144 (II) The amount allowable under IRC 401(m).

1145 b. After-tax contributions to the DROP shall earn interest
1146 in the same manner as set forth in sub-subparagraph 2.b.

1147 c. Distributions to members or their beneficiaries of
1148 after-tax contributions may be withdrawn at any time on or after
1149 termination of employment. However, payments must be made at
1150 least as promptly as required under subsection (18).

1151 d. Loans shall not be made against after-tax
1152 contributions.

1153 (1) Backwards Deferred Retirement Option Plan (BackDROP).—

1154 1. Eligibility to participate in the BackDROP.—

1155 a. Any member who has attained age 53 with 18 or more
1156 years of service, who has attained age 58 with 13 or more years
1157 of service, or who has acquired 26 years of service regardless
1158 of age may participate in the BackDROP. Members shall elect to
1159 participate by applying to the Board of Trustees on a form
1160 provided for that purpose. A member may not participate in both
1161 the DROP and the BackDROP.

1162 ~~b. Election to participate shall be forfeited if not~~
1163 ~~exercised within the first 28 years of credited service.~~

1164 ~~However, a member who is actively employed by the Department on~~
1165 ~~October 1, 2003, may elect to participate in the BackDROP beyond~~

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1166 ~~the 28th year as follows: the member may elect to participate in~~
1167 ~~the benefit for 3 full years in the 29th year of employment, for~~
1168 ~~1 full year in the 30th year of employment, and after the 30th~~
1169 ~~year of employment all elections to participate in the BackDROP~~
1170 ~~end.~~

1171 ~~e.~~ A member shall not be eligible to receive a BackDROP
1172 benefit that is greater than an accumulation of 60 months of the
1173 monthly retirement benefit. A member shall not be eligible to
1174 receive a benefit which is less than an accumulation of 36
1175 months of the monthly retirement benefit, ~~except for the~~
1176 ~~reduction of benefits as defined in sub-subparagraph b.~~

1177 ~~c.d.~~ Member contributions shall continue throughout the
1178 period of employment and are not refundable for the BackDROP
1179 period.

1180 ~~d.e.~~ Members who elect to participate in the BackDROP must
1181 retire and terminate employment to be eligible for payment of
1182 the benefit.

1183 ~~e.f.~~ Any member who terminates employment by any means,
1184 including death, prior to attaining age 53 with 18 or more years
1185 of service or age 58 with 13 or more years of service or by
1186 acquiring 26 years of service is not eligible to participate in
1187 the BackDROP.

1188 2. Benefits payable upon election to participate in the
1189 BackDROP.—

1190 a. Upon election to receive the BackDROP benefit, a
1191 member's retirement benefits will be calculated as if the member
1192 had chosen to retire and terminate employment at a date which is
1193 more than 36 months but less than 60 months earlier. The number

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1194 of months to be applied is based upon the member's election. The
 1195 monthly pension amount shall be multiplied by the number of
 1196 months of BackDROP selected by the member, which shall be
 1197 between 36 and 60 months, inclusive. The BackDROP benefit shall
 1198 be calculated as a single sum, including interest at the rate of
 1199 8.25 percent less expenses, compounded annually for the period
 1200 of BackDROP for members who have reached normal retirement age
 1201 on or before May 13, 2012, or who have a calculated BackDROP
 1202 date of October 1, 2011, or earlier. Effective for retirements
 1203 after May 13, 2012, the interest rate shall be 4 percent, less
 1204 expenses, compounded annually for the period of BackDROP.

1205 b. No payments shall be made from the BackDROP until the
 1206 member terminates employment with the Department.

1207 c. Upon termination of employment, participants in the
 1208 BackDROP shall receive lump sum the balance of the BackDROP
 1209 account within 6 months after termination of employment ~~in~~
 1210 ~~accordance with the following rules:~~

1211 (I) Members who have reached normal retirement age on or
 1212 before May 13, 2012, or who have a calculated BackDROP date of
 1213 October 1, 2011, or earlier may leave their money in the account
 1214 until the latest day under subsection (18) or choose payments as
 1215 follows: may elect to receive payment upon termination of
 1216 employment or defer payment of the BackDROP until the latest day
 1217 under sub-sub-subparagraph (III).

1218 ~~(II) Payments shall be made in either:~~

1219 (A) A lump sum.—The entire account balance shall be paid
 1220 to the retirant upon approval of the Board of Trustees.

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1221 (B) Installments.—The account balance shall be paid out to
1222 the retirant in three equal payments paid over 3 years, the
1223 first payment to be made upon approval of the Board of Trustees.

1224 (C) Annuity.—The account balance shall be paid out in
1225 monthly installments over the lifetime of the member or until
1226 the entire balance is exhausted. The monthly amount paid shall
1227 be determined by the Fund's actuary in accordance with
1228 selections made by the member in a form provided by the Board of
1229 Trustees.

1230 (II) ~~(III)~~ Any form of payment selected by a member must
1231 comply with the minimum distribution requirements of the IRC
1232 401(a) (9), and are subject to the requirements of subsection
1233 (18).

1234 (III) ~~(IV)~~ The beneficiary of the BackDROP member shall
1235 have the same right as the participant in accordance with
1236 subsection (7).

1237 3. BackDROP earnings.—

1238 a. BackDROP members may select one of three methods to
1239 credit investment earnings to their accounts. Investment
1240 earnings shall be credited on a quarterly basis. The method may
1241 be changed each year effective October 1; however, the method
1242 must be elected prior to October 1. The methods are:

1243 (I) The BackDROP is credited with earnings and losses
1244 using the rate of investment return earned on Pension Fund
1245 assets as reported by the Fund's investment monitor. BackDROP
1246 assets are commingled with the Pension Fund assets for
1247 investment purposes;

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1248 (II) A fixed rate of 8.25 percent for members who reached
 1249 normal retirement age on or before May 13, 2012, or members who
 1250 have a calculated BackDROP date of October 1, 2011, or earlier.
 1251 Effective May 13, 2012, the fixed rate is 4 percent for members
 1252 who retire on or after May 13, 2012; or

1253 (III) A percentage of the BackDROP account assets to be
 1254 credited with earnings or losses in accordance with sub-sub-
 1255 subparagraph (I) and a corresponding percentage of the BackDROP
 1256 account assets credited in accordance with sub-sub-subparagraph
 1257 (II). The combined total percentage invested under this sub-sub-
 1258 subparagraph must equal 100 percent.

1259 b. Costs, fees, and expenses of administration shall be
 1260 debited from the individual member BackDROP accounts on a
 1261 proportionate basis, taking the cost, fees, and expenses of
 1262 administration of the Fund as a whole, multiplied by a fraction,
 1263 the numerator of which is the total of assets in all individual
 1264 member accounts and the denominator of which is the total of
 1265 assets of the Fund as a whole.

1266 4. Loans from the BackDROP.—

1267 a. Availability of loans.—

1268 (I) Loans are available to members who reached normal
 1269 retirement age on or before May 13, 2012, or members who have a
 1270 calculated BackDROP date of October 1, 2011, or earlier only
 1271 after termination of employment, provided the member had
 1272 participated in the BackDROP for a period of at least 12 months.

1273 (II) Loans may only be made from a member's own account.

1274 (III) There may be no more than one loan at a time.

1275 b. Amount of loan.—

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1276 (I) Loans may be made up to a maximum of 50 percent of
1277 account balance.

1278 (II) The maximum dollar amount of a loan is \$50,000,
1279 reduced by the highest outstanding loan balance during the last
1280 12 months.

1281 (III) The minimum amount of a loan is \$5,000.

1282 c. Limitation on loans.—Loans shall be made from the
1283 amounts paid into the BackDROP and earnings thereon.

1284 d. Term of loan.—

1285 (I) A loan must be for at least 1 year.

1286 (II) A loan shall be for no longer than 5 years.

1287 e. Loan interest rate.—

1288 (I) The interest rate shall be fixed at the time a loan is
1289 originated for the entire term of the loan.

1290 (II) The interest rate shall be equal to the lowest prime
1291 rate published by the Wall Street Journal on the last day of
1292 each calendar quarter preceding the date of the loan
1293 application.

1294 f. Defaults of loans.—

1295 (I) A loan shall be in default if 2 consecutive months of
1296 repayments are missed or if a total of 4 months of repayments is
1297 missed.

1298 (II) Upon default of a loan, the entire balance of the
1299 loan becomes due and payable immediately.

1300 (III) If a loan in default is not repaid in full
1301 immediately, the loan may be canceled and the outstanding
1302 balance treated as a distribution, which may be taxable.

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1303 (IV) Upon default of a loan, a member shall not be
1304 eligible for additional loans.

1305 g. Miscellaneous provisions.—

1306 (I) All loans must be evidenced by a written loan
1307 agreement signed by the member and the Board of Trustees. The
1308 agreement shall contain a promissory note.

1309 (II) A member's spouse must consent in writing to the
1310 loan. The consent shall acknowledge the effect of the loan on
1311 the member's account balance.

1312 (III) Loans shall be considered general assets of the
1313 Fund.

1314 (IV) Loans shall be subject to administrative fees to be
1315 set by the Board of Trustees.

1316 5. After-tax contributions to the BackDROP.—

1317 a. A member may make after-tax contributions to the
1318 BackDROP. The maximum amount that may be contributed is the
1319 lesser of:

1320 (I) The IRS 415(c) limit.

1321 (II) The amount allowable under IRC 401(m).

1322 b. After-tax contributions to the BackDROP shall earn
1323 interest in the same manner as set forth in sub-subparagraph
1324 3.a.

1325 c. Distributions to members or their beneficiaries of
1326 after-tax contributions may be withdrawn at any time on or after
1327 termination of employment. However, payments must be made at
1328 least as promptly as required under subsection (18).

1329 d. Loans shall not be made against after-tax
1330 contributions.

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1331 (6) Disability pensions, medical examinations, return to
1332 work, etc.—

1333 (a) Nonduty disability requirements.—Any member with 5 or
1334 more years of service credit who is regularly employed in the
1335 Department who becomes physically or mentally totally and
1336 permanently disabled by illness, disease, or injury to perform
1337 the duties of a firefighter shall, upon the member's application
1338 to the Board, be retired with a pension provided for in this
1339 paragraph, provided that after a medical examination of the
1340 member made by or under the direction of a medical committee,
1341 the medical committee reports to the Board, in writing, whether:

1342 1. The member is wholly prevented from rendering useful
1343 and efficient service as a firefighter; and

1344 2. The member is likely to remain so disabled continuously
1345 and permanently.

1346
1347 The Board may admit and consider any other evidence that it
1348 deems appropriate. The final decision as to whether a member
1349 meets the requirements for a nonduty disability pension rests
1350 with the Board and shall be based on competent substantial
1351 evidence on the record as a whole.

1352 (b) Nonduty disability pension benefits.—Upon retirement
1353 on account of disability as provided in paragraph (a), a member
1354 shall receive a disability pension computed according to
1355 subparagraph (5)(a)1., notwithstanding that he or she might not
1356 have attained age 50 years and might not have 15 or more years
1357 of service credit. Further, if the member has at least 10 years
1358 of service credit, the disability pension shall not be less than

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1359 25 percent of the member's average monthly salary at the time of
1360 disability. A disability retiree may select optional forms of
1361 benefits in accordance with paragraph (5)(g).

1362 (c) Duty disability requirements.—Any member who is
1363 regularly employed in the Department and who becomes physically
1364 or mentally totally and permanently disabled to perform the
1365 duties of a firefighter by reason of an injury or disease
1366 arising out of and in the course of the performance of his or
1367 her duties as a firefighter in the employ of the City, shall,
1368 upon his or her application to the Board, be retired with a
1369 disability pension provided for in this paragraph, provided that
1370 after a medical examination of the member made by or under the
1371 direction of the medical committee, the medical committee
1372 reports to the Board in writing, whether:

- 1373 1. The member is wholly prevented from rendering useful
1374 and efficient service as a firefighter; and
- 1375 2. The member is likely to remain so disabled continuously
1376 and permanently.

1377
1378 The Board shall admit and consider any other evidence that it
1379 deems appropriate. Any condition or impairment of health of a
1380 member caused by tuberculosis, hypertension, heart disease,
1381 hepatitis, or meningococcal meningitis resulting in total
1382 disability or death shall be presumed to have been accidental
1383 and suffered in the line of duty unless the contrary is shown by
1384 competent evidence, provided such member shall have successfully
1385 passed a physical examination before entering into such service,
1386 which examination failed to reveal any evidence of such

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1387 | condition. In order to be entitled to the presumption in the
 1388 | case of hepatitis, meningococcal meningitis, or tuberculosis,
 1389 | the member must meet the requirements of section 112.181,
 1390 | Florida Statutes. The final decision as to whether a member
 1391 | meets the requirements for a disability pension rests with the
 1392 | Board, based on competent substantial evidence on the record as
 1393 | a whole.

1394 | (d) Duty disability pension benefits.—Upon retirement on
 1395 | account of disability, as provided in paragraph (c), a member
 1396 | shall receive a monthly pension for the remainder of his or her
 1397 | life, equal to the greater of the following:

1398 | 1. Sixty-five percent of the final average salary; or

1399 | 2. The sum of the following:

1400 | a. Two and one-half percent of the member's final average
 1401 | salary multiplied by the number of years, and fraction of a
 1402 | year, of his or her service credit to a maximum of 26 years of
 1403 | service, and 2 percent of his or her final average salary
 1404 | multiplied by the number of years, and fraction of a year, in
 1405 | excess of 26 years of service, for all years of service earned
 1406 | through September 30, 1988; and

1407 | b. Two percent of the member's final average salary
 1408 | multiplied by the number of years, and fraction of a year, of
 1409 | his or her service credit earned on or after October 1, 1988.

1410 | (e) Medical committee.—The medical committee provided for
 1411 | in this subsection shall consist of no less than two qualified
 1412 | health professionals, one of whom shall be designated by the
 1413 | Board and one by the member. If deemed necessary by the Board, a
 1414 | third qualified health professional, selected by the two

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1415 committee members previously designated, may be named to the
1416 medical committee. The medical committee shall report to the
1417 Board the existence and degree of permanent physical impairment
1418 of the member, if any, based upon the most recent edition of the
1419 American Medical Association's Guide to the Evaluation of
1420 Permanent Impairment, if applicable.

1421 (f) Exclusions from disability pensions.—No disability
1422 pension shall be payable, either as a duty disability pension or
1423 as a nonduty disability pension, if the disability is a result
1424 of:

1425 1. Excessive and habitual use by the member of drugs,
1426 intoxicants, or narcotics;

1427 2. Injury or disease sustained by the member while
1428 willfully and illegally participating in fights, riots, or civil
1429 insurrections or while committing a crime;

1430 3. Injury or disease sustained by the member while serving
1431 in any armed forces. This exclusion does not affect members who
1432 have become disabled as a result of intervening military service
1433 under the federal Heroes Earnings Assistance and Relief Tax Act
1434 of 2008 (H.R. 6081; P.L., ~~Pub. L. No.~~ 110-245);

1435 4. Injury or disease sustained by the member after his or
1436 her employment has terminated;

1437 5. Injury or disease sustained by the member while working
1438 for anyone other than the City and arising out of such
1439 employment; or

1440 6. Injury or disease sustained by the member before coming
1441 to work for the City. This exclusion applies to duty disability
1442 applications only.

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1443 (g) Payment of disability pensions.—Monthly disability
1444 retirement benefits shall be payable as of the date the Board
1445 determines that the member was entitled to a disability pension;
1446 however, the first payment shall actually be paid on the first
1447 day of the first month after the Board determines such
1448 entitlement. Any portion due for a partial month shall be paid
1449 together with the first payment. If the member recovers from the
1450 disability prior to his or her normal retirement date, the last
1451 payment shall be the payment due next preceding the date of such
1452 recovery or, if the member dies without recovering from his or
1453 her disability, then the following shall apply:

1454 1. Married member.—Beneficiary benefits as set forth in
1455 subsection (7) shall be paid if, at the time of death, the
1456 member was married or had a dependent child or children or
1457 parent or parents; or

1458 2. Unmarried member with 10 years of service or more.—
1459 Payments shall be made until the member's death or the 120th
1460 monthly payment, whichever is later; or

1461 3. Unmarried member with less than 10 years of service.—
1462 Payments shall be made until the member's death.

1463
1464 Any monthly retirement income payments due after the death of a
1465 disabled member shall be paid to the member's designated
1466 beneficiary or beneficiaries or the member's estate as provided
1467 in paragraph (5)(h) or subsection (7), as applicable.

1468 (h) Reexamination of disability retirant.—At least once
1469 each year during the first 5 years following a member's
1470 retirement on account of disability, and at least once in each

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1471 3-year period thereafter, the Board shall require any disability
 1472 retirant who has not attained age 50 to undergo a medical
 1473 examination to be made by or under the direction of a physician
 1474 designated by the Board. However, if a disability retirant has
 1475 lost the firefighter certification, as required by Florida
 1476 Statutes, then the reexamination is discretionary. If the
 1477 retirant refuses to submit to the medical examination in any
 1478 such period, his or her disability pension may be suspended by
 1479 the Board until withdrawal of such refusal. If such refusal
 1480 continues for 1 year, all of the retirant's rights in and to a
 1481 disability pension may be revoked by the Board. If, upon medical
 1482 examination of the retirant, the physician reports to the Board
 1483 that the retirant is physically able and capable of performing
 1484 the duties of a firefighter in the rank held by him or her at
 1485 the time of retirement, the member shall be returned to
 1486 employment in the Department at a salary not less than the
 1487 salary of the rank last held by him or her, provided that return
 1488 to the employ of the Department shall be subject to the approval
 1489 of the Fire Chief. Should the retirant become employed by the
 1490 City, his or her disability pension shall terminate.

1491 (i) Return to work of a disability retirant; service
 1492 credit.—In the event a disability retirant is returned to
 1493 employment in the department, as provided in paragraph (h), his
 1494 or her service credit at the time of disability retirement shall
 1495 be restored to his or her credit. In the event he or she retired
 1496 under the provisions of paragraph (c), he or she shall be given
 1497 service credit for the period he or she was in receipt of a
 1498 disability pension. If he or she retired under the provisions of

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1499 paragraph (a), he or she shall not be given service credit for
1500 the period he or she was in receipt of a disability pension.

1501 (j) Expenses of medical examinations for disability.—The
1502 member shall be responsible for the expenses of the physician
1503 the member designates for medical examinations required under
1504 this subsection. Expenses for any other medical examinations
1505 required under this subsection shall be paid by the Fund.

1506 (7) Beneficiary benefits.—

1507 (a) Death while in service; 5 years or more (nonduty).—In
1508 the event a member with 5 or more years of service credit dies
1509 while in the employ of the Department, and the Board finds his
1510 or her death to have occurred as the result of causes arising
1511 outside the performance of his or her duties as a firefighter in
1512 the employ of the City, the following applicable pensions shall
1513 be paid:

1514 1. Surviving spouse's benefits.—The surviving spouse shall
1515 receive a pension equal to two-thirds of the pension the member
1516 would otherwise have been entitled to receive under paragraph
1517 (5) (a), as if the member had retired the day preceding the date
1518 of his or her death, notwithstanding that the member might not
1519 have met the age and service requirements for retirement as
1520 specified in subsection (5). Upon the surviving spouse's death,
1521 the pension shall terminate.

1522 2. Benefits for children, surviving spouse, etc.—In the
1523 event the deceased member does not leave a surviving spouse, or
1524 if the surviving spouse shall die, and the member leaves an
1525 unmarried child or children under age 18, each such child shall
1526 receive a pension of an equal share of the pension to which said

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1527 member's surviving spouse was or would have been entitled. Upon
1528 any such child's adoption, marriage, death, or attainment of age
1529 18, the child's pension shall terminate and said child's pension
1530 shall be apportioned to the deceased member's remaining eligible
1531 children under age 18.

1532 3. Benefits for dependent parents.—In the event a member
1533 dies and does not leave a surviving spouse or children eligible
1534 to receive a pension provided for in subparagraphs 1. and 2.,
1535 and the member leaves a parent or parents whom the Board finds
1536 to have been dependent upon the member for 50 percent or more of
1537 their financial support, each such parent shall receive a
1538 pension of an equal share of the pension to which the member's
1539 surviving spouse would have been entitled. Upon any such
1540 parent's remarriage or death, the parent's pension shall
1541 terminate.

1542 4. Estate.—In the event a member dies and does not leave a
1543 surviving spouse, children, or parents eligible to receive a
1544 pension provided for in subparagraph 1., subparagraph 2., or
1545 subparagraph 3., then the benefits remaining, if any, shall be
1546 paid to the member's estate.

1547 (b) Death in the line of duty.—In the event a member dies
1548 while in the employ of the Department, and the Board finds his
1549 or her death to be the natural and proximate result of causes
1550 arising out of and in the actual performance of duty as a
1551 firefighter in the employ of the City, the following applicable
1552 pensions shall be paid:

1553 1. Surviving spouse's benefits.—The surviving spouse shall
1554 receive a monthly pension equal to the greater of:

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1555 a. Sixty-six and two-thirds of the member's highest 12
1556 months' salary or top step firefighter pay, whichever is
1557 greater; or

1558 b. The surviving spouse's share of the member's accrued
1559 benefit. Upon the surviving spouse's death, the pension shall
1560 terminate.

1561 2. Benefits for children, surviving spouse, etc.—In the
1562 event the deceased member does not leave a surviving spouse, or
1563 if the surviving spouse shall die, and the member leaves an
1564 unmarried child or children under age 18, each such child shall
1565 receive a pension of an equal share of the pension to which the
1566 member's surviving spouse was or would have been entitled. Upon
1567 any such child's adoption, marriage, death, or attainment of age
1568 18, the child's pension shall terminate and said child's pension
1569 shall be apportioned to the deceased member's remaining eligible
1570 children under age 18.

1571 3. Benefits for dependent parents.—In the event a member
1572 dies and does not leave a surviving spouse or children eligible
1573 to receive a pension provided for in subparagraphs 1. and 2.,
1574 and the member leaves a parent or parents whom the Board finds
1575 to have been dependent upon the member for 50 percent or more of
1576 their financial support, each such parent shall receive a
1577 pension of an equal share of the pension to which said member's
1578 surviving spouse would have been entitled. Upon any such
1579 parent's remarriage or death, the parent's pension shall
1580 terminate.

1581 4. Estate.—In the event a member dies and does not leave a
1582 surviving spouse, children, or parents eligible to receive a

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1583 pension provided for in subparagraph 1., subparagraph 2., or
1584 subparagraph 3., then the benefits remaining, if any, shall be
1585 paid to the member's estate.

1586 (c) Death after retirement.—Upon the death of a retirant,
1587 the following applicable pensions shall be paid:

1588 1. Surviving spouse's benefits.—The surviving spouse shall
1589 receive a pension equal to three-fourths of the retirant's
1590 pension at the time of his or her death. Upon the surviving
1591 spouse's death, the pension shall terminate.

1592 2. Benefits for children, surviving spouse, etc.—In the
1593 event a deceased retirant does not leave a surviving spouse, or
1594 if the surviving spouse shall die, and the retirant leaves an
1595 unmarried child or children under age 18, each such child shall
1596 receive a pension of an equal share of the pension to which the
1597 retirant's surviving spouse was or would have been entitled.
1598 Upon any such child's adoption, marriage, death, or attainment
1599 of age 18, the child's pension shall terminate and said child's
1600 pension shall be apportioned to the deceased retirant's
1601 remaining eligible children under age 18.

1602 3. Benefits for dependent parents.—In the event a retirant
1603 dies and does not leave a surviving spouse or children eligible
1604 to receive a pension provided for in subparagraphs 1. and 2.,
1605 and the retirant leaves a parent or parents whom the Board finds
1606 to have been dependent upon the retirant for 50 percent or more
1607 of their financial support, each such parent shall receive a
1608 pension of an equal share of the pension to which the retirant's
1609 surviving spouse would have been entitled. Upon any such

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1610 parent's remarriage or death, the parent's pension shall
1611 terminate.

1612 4. Estate.—In the event a retirant dies and does not leave
1613 a surviving spouse, children, or parents eligible to receive a
1614 pension provided for in subparagraph 1., subparagraph 2., or
1615 subparagraph 3., then the benefits remaining, if any, shall be
1616 paid to the retirant's estate.

1617 (8) Acceptance of pension no bar to subsequent work.—The
1618 acceptance of a pension by a member upon retirement shall not
1619 bar the member from engaging in any other business thereafter.

1620 (9) Pension not assignable or subject to garnishment.—The
1621 pensions or other benefits accrued or accruing to any person
1622 under the provision of this act and the accumulated
1623 contributions and the cash securities in the Funds created under
1624 this act shall not be subject to execution or attachment or to
1625 any legal process whatsoever, and shall be unassignable.

1626 However, pursuant to a court support order, the Trustees may
1627 direct that the retirement benefits be paid for alimony or child
1628 support in accordance with rules and regulations adopted by the
1629 Board of Trustees. Upon written request by the retiree, the
1630 Board of Trustees may authorize the Plan administrator to
1631 withhold from the monthly retirement payment funds necessary to:

- 1632 (a) Pay for benefits being received through the City;
- 1633 (b) Pay the certified bargaining agent; or
- 1634 (c) Pay for premiums for accident health and long-term
1635 care insurance for the retiree's spouse and dependants. A
1636 retirement plan does not incur liability for participation in

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1637 | this permissive program if its actions are taken in good faith
1638 | pursuant to section 175.061(7), Florida Statutes.

1639 | (10) Transfer of funds.—All funds and assets previously
1640 | owned and controlled by the West Palm Beach Firemen's Relief and
1641 | Pension Fund are vested in the Board of this Fund.

1642 | (11) Ordinances applicable.—All ordinances of the City
1643 | applicable to chapter 175, Florida Statutes, are hereby made
1644 | applicable to this act with equal force and effect. No proposed
1645 | change or amendment to this act shall be adopted without
1646 | approval required by section 175.351(2), Florida Statutes.

1647 | (12) Existing benefits to continue.—This act, and any
1648 | amendments thereto, shall not be construed to decrease the
1649 | benefits payable to, or on account of, any member of the Fund.

1650 | (13) Workers' compensation offset.—The pension benefits
1651 | payable under this act shall not be offset by workers'
1652 | compensation benefits payable on account of the disability or
1653 | death of a member except to the extent that the total of the
1654 | pension benefits and workers' compensation benefits exceed the
1655 | member's monthly average wage.

1656 | (14) Actuarial valuations.—The Fund shall be actuarially
1657 | evaluated annually.

1658 | (15) Review procedures.—

1659 | (a) The applicant for benefits under this chapter may,
1660 | within 20 days after being informed of the denial of his or her
1661 | request for pension benefits, appeal the denial by filing a
1662 | reply to the proposed order with the pension's secretary. If no
1663 | appeal is filed within the time period, then the proposed order
1664 | shall be final.

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1665 (b) The Board of Trustees shall hold a hearing within 45
 1666 days after the receipt of the appeal. Written notice of the
 1667 hearing shall be sent by certified mail return
 1668 receipt/restricted to individual, to the applicant at the
 1669 address listed on the application 10 days prior to the hearing.

1670 (c) The procedures at the hearing shall be as follows:

1671 1. All parties shall have an opportunity to respond, to
 1672 present physical and testimonial evidence and argument on all
 1673 issues involved, to conduct cross-examination, to submit
 1674 rebuttal evidence, and to be represented by counsel. Medical
 1675 reports and depositions may be accepted in lieu of live
 1676 testimony at the Board's discretion.

1677 2. All witnesses shall be sworn.

1678 3. The applicant and the Board shall have an opportunity
 1679 to question all witnesses.

1680 4. Formal rules of evidence and formal rules of civil
 1681 procedure shall not apply. The proceedings shall comply with the
 1682 essential requirements of due process and law.

1683 5. The record in a case governed by this subsection shall
 1684 consist only of:

1685 a. A tape recording of the hearing, to be taped and
 1686 maintained as part of the official files of the Board of
 1687 Trustees by the pension's secretary.

1688 b. Evidence received or considered.

1689 c. All notices, pleadings, motions, and intermediate
 1690 rulings.

1691 d. Any decisions, opinions, proposed or recommended
 1692 orders, or reports by the Board of Trustees.

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1693 (d) Within 5 days after the first hearing, the Board shall
1694 take one of the following actions:

1695 1. Grant the pension benefits by overturning the proposed
1696 order by a majority vote.

1697 2. Deny the benefits and approve the proposed order as a
1698 final order after making any changes in the order the Board
1699 feels is necessary.

1700 (e) Findings of fact by the Board shall be based on
1701 competent, substantial evidence on the record.

1702 (f) Within 20 calendar days after rendering its order, the
1703 Board of Trustees shall send to the applicant, by certified mail
1704 return receipt/restricted to individual, a copy of the order.

1705 (g) The applicant may seek review of the order by the
1706 Board of Trustees by filing a petition for writ of certiorari
1707 with the circuit court within 30 days.

1708 (16) Pickup of employee contributions.—Effective the first
1709 day of the first full payroll period of the first calendar
1710 quarter following receipt of a favorable determination letter
1711 from the Internal Revenue Service, the City shall pick up the
1712 member contribution required by this section. The contributions
1713 so picked up shall be treated as employer contributions in
1714 determining tax treatment under the United States Internal
1715 Revenue Code. The City shall pick up the member contributions
1716 from funds established and available for salaries, which funds
1717 would otherwise have been designated as member contributions and
1718 paid to the Fund. Member contributions picked up by the City
1719 pursuant to this subsection shall be treated for all other
1720 purposes of making a refund of members' contributions, and for

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1721 all other purposes of this and other laws, in the same manner
1722 and to the same extent as member contributions made prior to the
1723 effective date of this subsection. The intent of this subsection
1724 is to comply with section 414(H)(2) of the Internal Revenue
1725 Code.

1726 (17) Internal Revenue Code limits.—

1727 (a) In no event may a member's annual benefit exceed
1728 \$160,000, adjusted for cost of living in accordance with
1729 Internal Revenue Code ("IRC") Section 415(d).

1730 (b) If a member has less than 10 years of service with the
1731 City, the applicable limitation in paragraph (a) shall be
1732 reduced by multiplying such limitation by a fraction, not to
1733 exceed 1. The numerator of such fraction shall be the number of
1734 years, or part thereof, of service with the City; the
1735 denominator shall be 10 years.

1736 (c) For purposes of this subsection, "annual benefit"
1737 means a benefit payable annually in the form of a straight life
1738 annuity with no ancillary or incidental benefits and with no
1739 member or rollover contributions. To the extent that ancillary
1740 benefits are provided, the limits set forth in paragraph (a)
1741 shall be reduced actuarially, using an interest rate assumption
1742 equal to the greater of 5 percent or the rate being used for
1743 actuarial equivalence, to reflect such ancillary benefits.

1744 (d) If distribution of retirement benefits begins before
1745 age 62, the dollar limitation as described in paragraph (a)
1746 shall be reduced using an interest rate assumption equal to the
1747 greater of 5 percent or the interest rate used for actuarial
1748 equivalence; however, retirement benefits shall not be reduced

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

1760 | (e) Compensation in excess of limitations set forth in
 1761 | Section 401(a)(17) of the Internal Revenue Code shall be
 1762 | disregarded. The limitation on compensation for an eligible
 1763 | employee shall not be less than the amount which was allowed to
 1764 | be taken into account hereunder as in effect on July 1, 1993.
 1765 | "Eligible employee" is an individual who was a member before the
 1766 | first plan year beginning after December 31, 1995.

1767 | (18) Required distributions.—In accordance with IRC
 1768 | Section 401(a)(9)(C), any and all benefit payments shall begin
 1769 | by the later of:

1770 | (a) April 1 of the calendar year following the calendar
 1771 | year of the member's retirement date; or

1772 | (b) April 1 of the calendar year following the calendar
 1773 | year in which the employee attains age 70 1/2.

1774 | (19) Miscellaneous requirements.—

1775 | (a) No benefit of any kind shall be payable from the
 1776 | assets of the Pension Fund unless specifically provided for in

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1777 | this act; however, the Board of Trustees, with the approval of
 1778 | the City, may grant ad hoc benefits after a public hearing and
 1779 | acceptance by the state of an actuarial impact statement
 1780 | submitted pursuant to part VII of chapter 112, Florida Statutes.

1781 | (b) The City may not offset any part of its required
 1782 | annual contribution by the Fund's assets except as determined in
 1783 | an actuarial valuation, the report for which is determined to be
 1784 | state accepted pursuant to part VII of chapter 112, Florida
 1785 | Statutes.

1786 | (c) All provisions of this act and operations of the
 1787 | Pension Fund shall be carried out in compliance with part VII of
 1788 | chapter 112, Florida Statutes.

1789 | (d) False or misleading statements made to obtain
 1790 | retirement benefits prohibited.—

1791 | 1. It is unlawful for a person to willfully and knowingly
 1792 | make, or cause to be made, or to assist, conspire with, or urge
 1793 | another to make, or cause to be made, any false, fraudulent, or
 1794 | misleading oral or written statement or to withhold or conceal
 1795 | material information to obtain any benefit under this plan.

1796 | 2.a. A person who violates subparagraph 1. commits a
 1797 | misdemeanor of the first degree, punishable as provided in
 1798 | section 775.082 or section 775.083, Florida Statutes.

1799 | b. In addition to any applicable criminal penalty, upon
 1800 | conviction for a violation of subparagraph 1., a participant or
 1801 | beneficiary of this plan may, in the discretion of the Board of
 1802 | Trustees, be required to forfeit the right to receive any or all
 1803 | benefits to which the person would otherwise be entitled under
 1804 | this Plan. For the purposes of this sub-subparagraph,

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1805 "conviction" means a determination of guilt that is the result
1806 of a plea or trial, regardless of whether adjudication is
1807 withheld.

1808 (20) Rollover distributions.—

1809 (a) This subsection applies to distributions made on or
1810 after January 1, 1993. Notwithstanding any provision of the Plan
1811 to the contrary that would otherwise limit a distributee's
1812 election under this subsection, a distributee may elect, at the
1813 time and in the manner prescribed by the Board of Trustees, to
1814 have any portion of an eligible rollover distribution paid
1815 directly to an eligible retirement plan specified by the
1816 distributee in a direct rollover.

1817 (b)1. "Eligible rollover distribution" is any distribution
1818 of all or any portion of the balance to the credit of the
1819 distributee, except that an eligible rollover does not include
1820 any distribution that is one of a series of substantially equal
1821 periodic payments (not less frequently than annually) made for
1822 the life (or life expectancy) of the distributee or the joint
1823 lives (or joint life expectancies) of the distributee and the
1824 distributee's designated beneficiary, or for a specified period
1825 of 10 years or more; any distribution to the extent such
1826 distribution is required under section 401(a)(9) of the Code;
1827 and the portion of any distribution that is not includable in
1828 gross income.

1829 2. "Eligible retirement plan" is an individual retirement
1830 account described in section 408(a) of the Code, an individual
1831 retirement annuity described in section 408(b) of the Code, an
1832 annuity plan described in section 403(a) of the Code, or a

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

1838 3. "Distributee" includes an employee or former employee.
1839 In addition, the employee's or former employee's surviving
1840 spouse and the employee's or former employee's spouse or former
1841 spouse who is entitled to payment for alimony and child support
1842 under a domestic relations order determined to be qualified by
1843 this Fund are distributees with regard to the interest of the
1844 spouse or former spouse.

1845 4. "Direct rollover" is a payment by the Plan to the
1846 eligible retirement plan specified by the distributee.

1847 (21) Rollovers from qualified plans.—

1848 (a) A member may roll over all or part of his or her
1849 assets in another qualified plan to his or her chapter 175,
1850 Florida Statutes, share account, provided all of the following
1851 requirements are met:

1852 1. Some or all of the amount distributed from the other
1853 plan is rolled over to this plan no later than the 60th day
1854 after distribution was made from the plan or, if distributions
1855 are made in installments, no later than the 60th day after the
1856 last distribution was made.

1857 2. The amount rolled over to the share account does not
1858 include any amounts contributed by the member to the plan on a
1859 posttax basis.

1860 3. The rollover is made in cash.

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1861 4. The member certifies that the distribution is eligible
1862 for a rollover.

1863 5. Amounts which the Trustee accepts as a rollover to this
1864 Fund shall, along with any earnings allocated to the Trustee, be
1865 fully vested at all times.

1866
1867 The rollover may also be made to this plan from an individual
1868 retirement account qualified under Code Section 408 when the
1869 individual retirement was merely used as a conduit for funds
1870 from another qualified plan and the rollover is made in
1871 accordance with the rules provided in subparagraphs 1.-5.
1872 Amounts rolled over may be segregated from other Fund assets.
1873 The Trustee shall separately account for gains, losses, and
1874 administrative expenses on these rollovers as provided for in
1875 paragraphs (5) (d) and (j). In addition, the Fund may accept the
1876 direct transfer of a member's benefits from another qualified
1877 retirement plan or Internal Revenue Code section 457 plan. The
1878 Fund shall account for direct transfers in the same manner as a
1879 rollover and shall obtain certification from the member that the
1880 amounts are eligible for a rollover or direct transfer to this
1881 Fund.

1882 (b) Transfer of accumulated leave.—

1883 1. Members eligible to receive accumulated sick leave,
1884 accumulated vacation leave, or any other accumulated leave
1885 payable upon separation shall have the leave transferred to the
1886 Fund up to the amount permitted by law. Any additional amounts
1887 shall be paid directly to the member. Members on whose behalf

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1888 | leave has been transferred shall maintain the entire amount of
1889 | the transferred leave balance in the DROP or Share Account.

1890 | 2. If a member on whose behalf the City makes a
1891 | transferred leave balance to the Plan dies after retirement or
1892 | other separation, then any person who would have received a
1893 | death benefit had the member died in service immediately prior
1894 | to the date of retirement or other separation shall be entitled
1895 | to receive an amount equal to the transferred leave balance in a
1896 | lump sum. In the case of a surviving spouse or former spouse, an
1897 | election may be made to transfer the leave balance to an
1898 | eligible retirement plan in lieu of the lump sum payment.
1899 | Failure to make such an election by the surviving spouse or
1900 | former spouse within 60 days after the member's death shall be
1901 | deemed an election to receive the lump sum payment.

1902 | 3. The Board, by rule, shall prescribe the method for
1903 | implementing the provisions of this paragraph.

1904 | 4. Amounts transferred under this section shall remain
1905 | invested in the Pension Fund for a period of not less than 1
1906 | year.

1907 | (22) Actuarial assumptions.—The following actuarial
1908 | assumptions shall be used for all purposes in connection with
1909 | this Fund, effective October 1, 1998:

1910 | (a) The period for amortizing current, future, and past
1911 | actuarial gains or losses shall be 20 years.

1912 | (b) The assumed investment rate of return shall be 8.25
1913 | percent.

1914 | (23) Prior firefighter service.—Unless otherwise
1915 | prohibited by law, the years, or fractional parts of years, that

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1916 a member previously served as a firefighter for any other
 1917 municipal, county, state, or federal fire department or district
 1918 or any time served in the military service of the Armed Forces
 1919 of the United States shall be added to the years of credited
 1920 service, provided that the member contributes to the fund the
 1921 sum that would have been contributed, based on the member's
 1922 salary and the employee contribution rate in effect at the time
 1923 that the credited service is requested, had the member been a
 1924 member of this system for the years, or fractional parts of
 1925 years, for which the credit is requested, plus the amount
 1926 actuarially determined, such that the crediting of service does
 1927 not result in any cost to the fund, plus payment of costs for
 1928 all professional services rendered to the board in connection
 1929 with the purchase of years of credited service.

1930 (a) Payment by the member of the required amount may be
 1931 made within 6 months after the request for credit and in one
 1932 lump sum payment, or the member may buy back this time over a
 1933 period equal to the length of time being purchased or 5 years,
 1934 whichever is greater, at an interest rate which is equal to the
 1935 Fund's actuarial assumption. A member may request to purchase
 1936 some or all years of eligible service.

1937 (b) The credit purchased under this section shall count
 1938 for all purposes, except vesting.

1939 (c) In no event, however, may credited service be
 1940 purchased pursuant to this section for prior service with any
 1941 other municipal, county, or state fire department or district,
 1942 if such prior service forms or will form the basis of a

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1943 retirement benefit or pension from another retirement system or
1944 plan.

1945 (d) In the event that a member who is in the process of
1946 purchasing service suffers a disability and is awarded a benefit
1947 from the plan, the member shall not be required to complete the
1948 buyback. However, contributions made prior to the date the
1949 disability payment begins will be retained by the Fund.

1950 (e) If a member who has either completed the purchase of
1951 service or is in the process of purchasing service terminates
1952 before vesting, the member's contributions shall be refunded,
1953 including the buyback contributions.

1954 (f) A request to purchase service may be made at any time
1955 during the course of employment. A member may elect to purchase
1956 permissive service more than one time; however, the maximum
1957 years of service that may be purchased is 5 years.

1958 (g) There shall be no fiscal impact to the City, now or in
1959 the future, as a result of the purchase of credit for prior
1960 firefighter service or military service.

1961 (24) Termination of the Fund.—Upon termination of the Plan
1962 by the City for any reason, or because of a transfer, merger, or
1963 consolidation of governmental units, services, or functions as
1964 provided in chapter 121, Florida Statutes, or upon written
1965 notice to the Board by the City that contributions under the
1966 plan are being permanently discontinued, the rights of all
1967 employees to benefits accrued to the date of such termination or
1968 discontinuance and the amounts credited to the employees'
1969 accounts are nonforfeitable. The Fund shall be distributed in
1970 accordance with the following procedures:

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1971 (a) The Board shall determine the date of distribution and
1972 the asset value required to fund all the nonforfeitable
1973 benefits, after taking into account the expenses of such
1974 distribution. The Board shall inform the City if additional
1975 assets are required, in which event the City shall continue to
1976 financially support the Plan until all nonforfeitable benefits
1977 have been funded.

1978 (b) The Board shall determine the method of distribution
1979 of the asset value, whether distribution shall be by payment in
1980 cash, by the maintenance of another or substituted trust fund,
1981 by the purchase of insured annuities, or otherwise, for each
1982 firefighter entitled to benefits under the plan, as specified in
1983 paragraph (c).

1984 (c) The Board shall distribute the asset value as of the
1985 date of termination in the manner set forth in this paragraph,
1986 on the basis that the amount required to provide any given
1987 retirement income is the actuarially computed single-sum value
1988 of such retirement income, except that if the method of
1989 distribution determined under paragraph (b) involves the
1990 purchase of an insured annuity, the amount required to provide
1991 the given retirement income is the single premium payable for
1992 such annuity. The actuarial single-sum value may not be less
1993 than the employee's accumulated contributions to the Plan, with
1994 interest if provided by the Plan, less the value of any Plan
1995 benefits previously paid to the employee.

1996 (d) If there is asset value remaining after the full
1997 distribution specified in paragraph (c), and after payment of
1998 any expenses incurred with such distribution, such excess shall

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1999 | be returned to the City, less return to the state of the state's
 2000 | contributions, provided that, if the excess is less than the
 2001 | total contributions made by the City and the state to date of
 2002 | termination of the Plan, such excess shall be divided
 2003 | proportionately to the total contributions made by the City and
 2004 | the state.

2005 | (e) The Board shall distribute, in accordance with the
 2006 | manner of distribution determined under paragraph (b), the
 2007 | amounts determined under paragraph (c).

2008 | Section 2. This act shall take effect upon becoming a law.