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1
2 An act relating to the West Palm Beach Firefighters
3 Pension Fund, Palm Beach County; amending chapter
4 24981 (1947), Laws of Florida, as amended; revising
5 definitions relating to the West Palm Beach
6 Firefighters Pension Fund; removing certain duties of
7 the board secretary; revising members' credits for
8 service; providing powers of the board; revising
9 revenue sources; revising member contributions;
10 revising custodian of funds; revising investment
11 provisions; revising provisions regarding service
12 benefits; revising the supplemental pension
13 distribution; revising the optional forms of benefits;
14 revising the chapter 175 share accounts; revising
15 deferred retirement option plan (DROP); revising
16 backwards deferred retirement option plan (BackDROP);
17 revising disability pensions; providing duty-related
18 presumptions; revising beneficiary benefits; revising
19 review procedures; revising Internal Revenue Code
20 limits; providing minimum distribution of benefits;
21 revising rollovers from qualified plans; revising
22 prior firefighter service; providing an effective
23 date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Paragraphs (a), (g), and (h) of subsection (1),
28 paragraphs (a) and (b) of subsection (3), subsection (4),
29 paragraphs (a), (c), (d), (g), (j), and (k) of subsection (5),
30 paragraphs (c), (d), and (g) through (j) of subsection (6),
31 paragraph (b) of subsection (7), subsection (8), paragraph (c)
32 of subsection (9), subsection (15), paragraph (a) of subsection
33 (17), subsection (18), paragraph (b) of subsection (21), and
34 subsection (23) of section 17 of chapter 24981 (1947), Laws of
35 Florida, as amended, are amended, and paragraph (j) is added to
36 subsection (1), a new paragraph (g) is added to subsection (6),
37 paragraphs (f) and (g) are added to subsection (17), and a new
38 subsection (18) is added to that section, to read:

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

40 (1) Creation of fund.—There is hereby created a special
41 fund for the Fire Department of the City of West Palm Beach to
42 be known as the West Palm Beach Firefighters Pension Fund. All
43 assets of every description held in the name of the West Palm
44 Beach Firemen's Relief and Pension Fund and in the name of the
45 West Palm Beach Firefighters Pension Fund have been and shall
46 continue to be combined.

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

50 1. "Actuarial equivalent value," "actuarial equivalence,"

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51 or "single sum value" means the stated determination using an
 52 interest rate and mortality table (50% Male/50% Female for both
 53 member and joint annuitant) in the most recently approved
 54 valuation. Any change in the factors will be used to determine
 55 actuarial equivalence beginning the July 1 following the
 56 adoption of the new rate and mortality table ~~of 8.00 percent per~~
 57 ~~year and the RP-2000 Mortality Table.~~

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

62 3. "Board of Trustees" or "Board" means the Board of
 63 Trustees provided for in this act.

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

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

66 6. "Enrolled actuary" means an actuary who is enrolled
 67 under Subtitle C of Title III of the Employee Retirement Income
 68 Security Act of 1974 and who is a member of the Society of
 69 Actuaries or the American Academy of Actuaries.

70 7. "Final average salary" means:

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

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76 b. The average of the monthly salary paid a member in the
77 2 best years of employment, paid in and prior to the 23rd year
78 of credited service for retirements before May 13, 2012, for
79 members who are eligible for normal retirement as of May 13,
80 2012, or who have a calculated BackDROP date of October 1, 2011.
81 No active nonDROP member shall have any salary amounts paid
82 prior to October 1, 2000, used in the calculation of final
83 average salary. Those members whose final average salary would
84 include salary amounts paid prior to October 1, 2000, shall use
85 salary paid during the period from October 1, 2000, through
86 September 30, 2001, to replace any salary amounts paid prior to
87 October 1, 2000. The replacement salary from October 1, 2000,
88 through September 30, 2001, may range anywhere between 2 weeks
89 and 104 weeks, but shall only be enough salary as is sufficient
90 to replace the salary paid prior to October 1, 2000. The
91 replacement salary amounts from October 1, 2000, to September
92 30, 2001, shall be prorated based upon an annual salary.

93 8. "Fire Chief" means the firefighter who is the executive
94 officer of the City of West Palm Beach Fire Department.

95 9. "Firefighter" means any person employed in the
96 Department who is certified as a firefighter as a condition of
97 employment in accordance with the provisions of section 633.35,
98 Florida Statutes, whose duty it is to extinguish fires and
99 protect life and property. The term includes all certified,
100 supervisory, and command personnel whose duties include, in

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101 whole or in part, the supervision, training, guidance, and
 102 management responsibilities of full-time firefighters, part-time
 103 firefighters, or auxiliary firefighters but does not include
 104 part-time firefighters or auxiliary firefighters whose duty it
 105 is to extinguish fires and protect life and property. In
 106 accordance with s. 175.032(8)(a), Florida Statutes, the Fire
 107 Chief has the option to elect to participate, or not, in this
 108 Plan.

109 10. "Fund" or "Pension Fund" means the West Palm Beach
 110 Firefighters Pension Fund or the West Palm Beach Firemen's
 111 Relief and Pension Fund, as applicable.

112 11. "Member" means any person who is included in the
 113 membership of the Fund in accordance with paragraph (h).

114 12. "Pension" means a monthly amount payable from the Fund
 115 throughout the future life of a person, or for a limited period
 116 of time, as provided in this act.

117 13. "Qualified health professional" means a person duly
 118 and regularly engaged in the practice of his or her profession
 119 who holds a professional degree from a university or college and
 120 has had special professional training or skill regarding the
 121 physical or mental condition, disability, or lack thereof, upon
 122 which he or she is to present evidence to the Board.

123 ~~14. "Qualified public depository" means any bank or~~
 124 ~~savings association organized and existing under the laws of~~
 125 ~~Florida and any bank or savings association organized under the~~

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126 ~~laws of the United States that has its principal place of~~
127 ~~business in Florida, or has a branch office which is authorized~~
128 ~~under the laws of Florida or the United States to receive~~
129 ~~deposits in Florida, that meets all of the requirements of~~
130 ~~chapter 280, Florida Statutes, and that has been designated by~~
131 ~~the Treasurer of the State of Florida as a qualified public~~
132 ~~depository.~~

133 14.15. "Retirant" or "retiree" means any member who
134 retires with a pension payable from the Fund.

135 15.16. "Retirement" means a member's withdrawal from City
136 employment with a pension payable from the Fund.

137 16.17. "Salary" means: On and after January 1, 2007,
138 "salary," for the purpose of pension contributions and benefit
139 calculations, shall mean total cash remuneration paid by the
140 City to a firefighter for services rendered, excluding payments
141 for overtime and any lump-sum payments for accumulated leave
142 paid at retirement or entry into DROP/BackDROP such as accrued
143 vacation leave, accrued sick leave, and accrued personal leave.
144 Employees who are specifically excluded from bargaining unit
145 recognition as set forth in Article 2, but who are members of
146 the West Palm Beach Firefighters Pension Fund, shall continue to
147 make contributions on management incentive benefits. This
148 definition of compensation shall not include any duty employment
149 that is performed for an employer other than the City of West
150 Palm Beach per Article 31, Salary Plan. Beginning with salary

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151 | paid after December 31, 2008, and pursuant to Internal Revenue
152 | Code Section 414(u) (7), the definition of salary includes
153 | amounts paid by the City as differential wages to members who
154 | are absent from employment while in qualified military service.
155 | ~~17.18.~~ "Service," "credited service," or "service credit"
156 | means the total number of years, and fractional parts of years,
157 | of employment of any member in the employ of the Department,
158 | omitting intervening years and fractional parts of years of
159 | service when the member was not employed by the City. However,
160 | no member shall receive credit for years, or fractional parts of
161 | years, of service for which the member has withdrawn his or her
162 | contributions to the Fund, unless the member repays into the
163 | Fund the contributions withdrawn, with interest, within 60
164 | months after reemployment. Further, a member may voluntarily
165 | leave his or her contributions in the Fund for a period of 5
166 | years after leaving the employ of the Department, pending the
167 | possibility of his or her being rehired by the Department ~~and~~
168 | ~~remaining employed for a period of not less than 3 years,~~
169 | without losing credit for the time he or she has participated
170 | actively as a firefighter. If he or she is ~~does~~ not reemployed
171 | ~~remain employed for a period of at least 3 years as a~~
172 | ~~firefighter with the Department upon reemployment,~~ within 5
173 | years his or her contributions shall be returned without
174 | interest in accordance with paragraph (5) (i). In determining the
175 | aggregate number of years of service of any member, the time

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

193 (g) Board secretary.—The Board shall elect a secretary
194 from among the trustees. ~~The secretary shall keep a complete~~
195 ~~minute book of the actions, proceedings, and hearings of the~~
196 ~~Board.~~

197 (h) Membership.—All firefighters and all who hold a
198 position of firefighter in the employ of the Department shall be
199 members in the Fund. In accordance with s. 175.032(8)(a),
200 Florida Statutes, the Fire Chief has the option to elect to

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201 participate, or not, in this Plan. ~~All firefighters, including~~
 202 ~~the chief, who were in the employ of the Department as of April~~
 203 ~~30, 1959, shall be given credit for service rendered in the~~
 204 ~~employ of the Department prior to May 1, 1959.~~ New members to
 205 the Fund are required to undergo a physical examination for
 206 purposes of determining preexisting conditions. This physical
 207 examination shall be conducted in conjunction with the City's
 208 postoffer, preemployment physical examination. The Board's
 209 medical director shall review the results of this physical
 210 examination and provide notice to the Board and the member of
 211 any abnormal findings of the examination. This physical
 212 examination will be used for the purposes of establishing a
 213 physical profile of the member for determining preexisting
 214 conditions and presumptive illnesses as provided for in
 215 subsection (6). After review, if further physical examination is
 216 required, such examination shall be conducted at Board expense.

217 (j) Powers of the Board of Trustees.—The duties and
 218 responsibilities of the board shall include, but are not limited
 219 to, the following:

220 1. To construe the provisions of the plan and determine
 221 all questions arising thereunder.

222 2. To determine all questions relating to eligibility and
 223 participation.

224 3. To determine or have determined and certified the
 225 amount of all retirement allowances or other benefits hereunder.

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- 226 4. To receive and process all applications for
 227 participation and benefits and, where necessary, conduct
 228 hearings thereon.
- 229 5. To authorize all payments whatsoever from the fund, and
 230 to notify the disbursing agent, in writing, or approve benefit
 231 payments and other expenditures arising through operation of the
 232 plan and fund.
- 233 6. To make recommendations to the city commission and
 234 union regarding changes in the provisions of the plan.
- 235 7. To review reports of and have meetings with the
 236 custodian and investment agents or advisors; to require written
 237 reports from the custodian on fund assets and transactions on a
 238 monthly basis; to require written and oral reports from the
 239 investment agents or advisors on at least an annual basis, such
 240 reports to reflect fund investment, performance, investment
 241 recommendations, and overall review of fund investment policies.
- 242 8. To maintain a minute book containing the minutes and
 243 records of the proceedings and meetings of the board.
- 244 9. To make uniform rules and regulations and to take
 245 action as may be necessary to carry out the provisions of the
 246 plan and all decisions of the board made in good faith shall be
 247 final, binding, and conclusive on all parties.
- 248 10. To take such other action as the board shall deem, in
 249 the board's sole and exclusive discretion, as being necessary
 250 for the efficient management of the plan.

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

253 (a) Taxes of insurance companies.—The moneys returned to
254 the City as provided by chapter 175, Florida Statutes, shall be
255 used to fund the share account benefit described in paragraph
256 (5) (j). ~~The chapter 175 funds received in calendar years 2012,~~
257 ~~2013, and 2014 shall be utilized to reduce the employee~~
258 ~~contributions to 13.1 percent. Effective beginning with the~~
259 ~~chapter 175 funds received in calendar year 2015, a portion of~~
260 ~~the chapter 175 funds will be used to reduce the employee~~
261 ~~contributions and the remainder will be allocated to the share~~
262 ~~accounts provided for in paragraph (5) (j), in accordance with~~
263 ~~the following schedule:~~

264 1. ~~In 2015, 85 percent shall be allocated to reduce~~
265 ~~contributions and 15 percent shall be allocated to share~~
266 ~~accounts.~~

267 2. ~~In 2016, 65 percent shall be allocated to reduce~~
268 ~~contributions and 35 percent shall be allocated to share~~
269 ~~accounts.~~

270 3. ~~In 2017, 35 percent shall be allocated to reduce~~
271 ~~contributions and 65 percent shall be allocated to share~~
272 ~~accounts.~~

273
274 ~~No amount of the chapter 175 funds is to be considered employee~~
275 ~~contributions for purposes of a refund of contributions as~~

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276 ~~provided for in paragraph (5) (i). Effective beginning calendar~~
277 ~~year 2018, the chapter 175 funds shall again be used in full to~~
278 ~~fund the share account benefits provided for in paragraph~~
279 ~~(5) (j).~~ The City shall not opt out of participation in chapter
280 175, Florida Statutes, or any similar statutory enactment unless
281 exigent circumstances exist, such as the bankruptcy of the City
282 or changes or amendments to the statute regarding extra benefits
283 by the Legislature. If any statutory changes are made by the
284 Legislature, the City and the Board may renegotiate the impact
285 of such changes, if necessary.

286 (b) Member contributions.—Effective October 1, 2018, the
287 member contributions are 13.1 percent, and any amount over 11.1
288 percent is to be used to purchase eligibility in the
289 postretirement health insurance.

290 ~~1. Effective May 13, 2012, the member shall contribute 25~~
291 ~~percent of his or her salary to the Fund. The full amount of the~~
292 ~~chapter 175 funds received in calendar years 2012, 2013, and~~
293 ~~2014 shall be used to reduce the employee contributions to 13.1~~
294 ~~percent.~~

295 ~~2. Effective October 1, 2015, the employee contribution~~
296 ~~rate will be as set forth in the table and beginning with the~~
297 ~~chapter 175 funds received in calendar year 2015, a portion of~~
298 ~~the chapter 175 funds will be used to reduce the employee~~
299 ~~contributions and the remainder will be allocated to the share~~
300 ~~accounts provided for in paragraph (5) (j), in accordance with~~

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301 ~~the following schedule:~~

	Employee	Allocation to	Actual	Allocation to
	Contribution	Reduce	Employee	Share
Year	Amount (%)	Contributions	Rate	Accounts (%)

302

303

304 ~~2015 22% 85% 13.1% 15%~~

305 ~~2016 20% 65% 13.1% 35%~~

306 ~~2017 17% 35% 13.1% 65%~~

307 ~~3. No amount of the chapter 175 funds is to be considered~~
 308 ~~employee contributions for purposes of a refund of contributions~~
 309 ~~as provided for in paragraph (5)(I).~~

310 ~~4. Effective October 1, 2018, the employee contributions~~
 311 ~~shall be 13.1 percent, which shall be picked up each pay period~~
 312 ~~from the salary of each member in the Department, and the~~
 313 ~~chapter 175 funds received in calendar year 2018 and thereafter~~
 314 ~~shall once again be allocated to the share accounts.~~

315 ~~5. If for purposes of paragraphs 1. and 2., the chapter~~
 316 ~~175 funds are insufficient to reduce the member's contributions~~
 317 ~~to 13.1 percent, the city shall make up the difference. All~~
 318 ~~amounts of member contributions that are picked up shall be~~
 319 ~~immediately paid over to the Pension Fund.~~

320 ~~6. For contributions made on or after May 13, 2012, any~~

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321 ~~contribution amount over 11.1 percent is to be used to purchase~~
 322 ~~eligibility in the postretirement health insurance, excluding~~
 323 ~~the amounts of chapter 175 funds used to offset the member~~
 324 ~~contribution rate.~~

325 (4) Custodian of funds.—All moneys and securities of the
 326 Fund may be deposited with the cash management coordinator of
 327 the City, acting in a ministerial capacity only, who shall be
 328 bonded and shall be liable in the same manner and to the same
 329 extent as he or she is liable for the safekeeping of funds for
 330 the City. However, any funds and securities so deposited with
 331 the cash management coordinator shall be kept in a separate fund
 332 by the cash management coordinator or clearly identified as
 333 funds and securities of the Fund. In lieu thereof, the Board
 334 shall deposit the funds and securities in a qualified public
 335 depository or a bank, credit union, or savings association by a
 336 trust department or trust company which are fully secured under
 337 trust business laws as provided for in section 280.03(3)(a),
 338 Florida Statutes, designated by the Board. The cash management
 339 coordinator or other depository shall receive all moneys due
 340 said Fund from all sources whatsoever. All tax revenue received
 341 pursuant to the provisions of chapter 175, Florida Statutes,
 342 shall be deposited into the Fund no more than 5 days after
 343 receipt. Member contributions withheld by the City on behalf of
 344 a member shall be deposited into the Fund immediately.

345 (a) Disbursements from the Fund.—The Board may issue

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346 drafts upon the Fund pursuant to this act and rules and
347 regulations prescribed by the Board, provided that such drafts
348 shall be issued in accordance with generally accepted accounting
349 procedures, American Institute of Certified Public Accountants
350 guidelines, and rules of the State of Florida Auditor General.
351 All such drafts shall be consecutively numbered, signed by the
352 chair and secretary, or other authorized fiduciary, and each
353 draft shall, upon its face, state the purpose for which it is
354 drawn. For this purpose, the chair and secretary shall be
355 bonded. The Board shall retain such drafts when paid, as
356 permanent vouchers for disbursements made, and no moneys shall
357 be otherwise drawn from the Fund. Payments from the Fund shall
358 be made only upon a specific or general motion or resolution
359 previously adopted by the Board authorizing such payment or
360 payments.

361 (b) Investment of moneys.—The Board shall have the power
362 and authority to invest and reinvest the moneys of the Fund, and
363 to hold, purchase, sell, assign, transfer, and dispose of any
364 securities and investments held in said Fund. The aim of the
365 investment policies shall be to preserve the integrity and
366 security of Fund principal, to maintain a balanced investment
367 portfolio, to maintain and enhance the value of Fund principal,
368 and to secure the maximum total return on investments that is
369 consonant with safety of principal, provided that such
370 investments and reinvestments shall be limited to the following:

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371 1. Direct obligations of the United States Government or
 372 any agency thereof and debentures and other evidences of
 373 indebtedness which are fully guaranteed by the United States
 374 Government or any agency thereof for the payment of principal
 375 and interest.

376 2. Direct obligations of the State of Florida.

377 3. In debt securities, preferred and common stocks and
 378 mutual fund shares subject to the limitations set forth in this
 379 section.

380 4. In time or savings accounts of a national bank, a state
 381 bank insured by the Bank Insurance Fund, a savings and loan
 382 association to the extent that deposits are guaranteed by the
 383 Savings Association Insurance Fund which is administered by the
 384 Federal Deposit Insurance Corporation, or a state or federally
 385 chartered credit union whose share accounts are insured by the
 386 National Credit Union Share Insurance Fund.

387 5. Of the total Fund principal in the pension or
 388 retirement system, including the amounts deposited in banks or
 389 associations, the total thereof invested in preferred stocks
 390 shall not aggregate more than 5 percent, and the total amount
 391 thereof invested in common stocks and mutual fund shares shall
 392 not aggregate more than 70 percent. Percentages shall be based
 393 on market value at the end of each reporting period (September
 394 30).

395 6. In real property or real estate investments, such

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396 investments shall not aggregate more than 15 percent of the
397 market value of the total Fund principal in the pension or
398 retirement system.

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

402 8. Any investments permitted by sections 112.661 and
403 215.47(1)-(8), (10), and (16), Florida Statutes, up to the
404 limits stated therein.

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

407 a. All corporate and association securities and mutual
408 fund shares shall be issued by a corporation or other legal
409 person, incorporated or otherwise, organized within the United
410 States and domiciled therein to the extent required by section
411 175.071(1)(b), Florida Statutes.

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

415 c. All stocks issued or guaranteed by a corporation shall
416 be listed on any one or more of the major stock exchanges. In
417 the case of bonds, at a minimum, 80 percent of bonds purchased
418 for the Fund shall hold a rating in one of the four highest
419 classifications by a major rating service. Said bonds and
420 preferred stocks that are convertible into common stocks shall

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421 be considered common stocks and the purchase of same shall be
422 limited by the provisions of subparagraph 5.

423 d.(I) The Board shall engage the services of professional
424 investment counsel to assist and advise the trustees in the
425 performance of their duties.

426 ~~(II)e. At least once every 3 years,~~ The Board shall retain
427 an independent consultant professionally qualified to evaluate
428 the performance of its professional money manager or investment
429 counsel on a quarterly basis. ~~The independent consultant shall~~
430 ~~make recommendations to the Board at its next regularly~~
431 ~~scheduled meeting.~~

432 (III)f. Notwithstanding anything else in this subsection
433 and as provided in sections 215.473 and 215.4725 ~~section~~
434 ~~215.473~~, Florida Statutes, the Board must identify and publicly
435 report any direct or indirect holdings it may have in any
436 scrutinized company, as defined in sections 215.473(1) and
437 215.4725(1), Florida Statutes ~~that section~~. In accordance with
438 those sections ~~Beginning January 1, 2010,~~ the Board must proceed
439 to sell, redeem, divest, or withdraw all publicly traded
440 securities it may have directly in such company. ~~The divestiture~~
441 ~~of any such security must be completed by September 30, 2010.~~
442 The Board and its named officers or investment advisors may not
443 be deemed to have breached their fiduciary duty in any action
444 taken to dispose of any such security, and the Board shall have
445 satisfactorily discharged the fiduciary duties of loyalty,

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446 | prudence, and sole and exclusive benefit to the participants of
 447 | the Fund and their beneficiaries if the actions it takes are
 448 | consistent with the duties imposed by section 215.473 or section
 449 | 215.4725, Florida Statutes, ~~as provided for in section~~
 450 | ~~175.071(8)~~, Florida Statutes, and the manner of the disposition,
 451 | if any, is reasonable as to the means chosen. For purposes of
 452 | determining which companies are scrutinized companies, the Board
 453 | uses ~~may utilize~~ the list of scrutinized companies as developed
 454 | by the Florida State Board of Administration. No person may
 455 | bring any civil, criminal, or administrative action against the
 456 | Board or any employee, officer, director, or advisor of the Fund
 457 | based upon the divesture of any security pursuant to this
 458 | subsection.

459 | (c) Maximum of cash not invested.—No more than 10 percent
 460 | of the assets of the Fund shall be held in cash or in
 461 | noninterest-bearing deposits.

462 | (d) Administrative expenses.—The administrative expenses
 463 | of the Fund shall be paid by the Fund.

464 | (e) Restrictions on the use of assets of Fund.—The assets
 465 | of the Fund shall be used only for the payment of benefits and
 466 | other disbursements authorized by this act and shall be used for
 467 | no other purpose.

468 | (5) Service pension.—

469 | (a) Normal retirement.—

470 | 1. Eligibility.—Any member who is actively employed on and

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471 after October 1, 2003, excluding members in the DROP, who has
 472 attained age 50 years and who has acquired 15 or more years of
 473 service credit; who has attained age 55 years and who has
 474 acquired 10 or more years of service credit; or who has acquired
 475 26 years of service credit without regard to age shall, upon
 476 application filed with the Board, be retired and shall be
 477 entitled to a monthly pension for the remainder of his or her
 478 life.

479 2. Benefit.—The normal retirement benefit is calculated
 480 based upon the sum of sub-subparagraphs a. and b. to a maximum
 481 of 92 percent of salary. However, in all cases, a member is
 482 entitled to at least 2.75 percent per year of credited service.

483 a. Effective on and after May 13, 2012, for all active
 484 members who retire on or after May 13, 2012, and who are not
 485 eligible for normal retirement as of May 13, 2012, the benefit
 486 is equal to 3 percent of final average earnings times credited
 487 service earned on and after May 13, 2012. Effective on and after
 488 October 1, 2026, the 3 percent in this sub-subparagraph is
 489 increased to 3.2 percent for all years of a member's service
 490 retroactive to May 13, 2012. Members who terminate or retire,
 491 including entry into DROP or BackDROP, before October 1, 2026,
 492 are not eligible for this benefit change. In all cases, members
 493 who are active on September 30, 2026, will receive at least the
 494 benefit accrued as of that day; and

495 b. Effective for service earned before May 13, 2012, for

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496 retirements before May 13, 2012, or for members who are eligible
497 for normal retirement as of May 13, 2012, the benefit is equal
498 to 4 percent of final average salary times credited service.

499 3. The 3-percent benefit accrual factor in subparagraph
500 2.7 is contingent on and subject to the adoption and maintenance
501 of the assumptions set forth in subsection (22). If such
502 assumptions are modified by legislative, judicial, or
503 administrative agency action, and the modification results in
504 increased City contributions to the Pension Fund, the 3-percent
505 accrual factor in subparagraph 2. shall be automatically
506 decreased prospectively, from the date of the action, to
507 completely offset the increase in City contributions. However,
508 in no event shall the benefit accrual factor in subparagraph 2.
509 be adjusted below 2.5 percent. To the extent that the benefit
510 accrual factor is less than 3 percent, the supplemental pension
511 distribution calculation under paragraph (d) shall be adjusted
512 for employees who retire on or after October 1, 1998, and those
513 employees who were members of the DROP on October 1, 1998. The
514 adjustment shall be to decrease the minimum return of 8.25
515 percent needed to afford the supplemental pension distribution,
516 when the amount of the reduction is zero if an employee has been
517 credited with 16 or more years with the 3 percent benefit
518 accrual factor or 1.25 percent if an employee has been credited
519 with no more than a 2.5-percent benefit accrual factor. If an
520 employee has been credited with less than 16 years at the 3-

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521 | percent benefit accrual factor, then the accumulated amount over
 522 | 2.5 percent for each year of service divided by .5 percent
 523 | divided by 16 subtracted from 1 multiplied by 1.25 percent is
 524 | the reduction from 8.25 percent. An example of the calculation
 525 | of the minimum return for supplemental pension distribution as
 526 | described above is set forth in Appendix B to the collective
 527 | bargaining agreement between the City of West Palm Beach and the
 528 | West Palm Beach Association of Firefighters, Local 727-IAFF,
 529 | October 1, 2003-September 30, 2006.

530 | (c) Early retirement.—Any member may retire from the
 531 | service of the Department as of the first day of any calendar
 532 | month which is prior to the member's normal retirement date but
 533 | subsequent to the date as of which the member has both attained
 534 | the age of 50 and has been a member of this Fund for 10
 535 | continuous years. In the event of early retirement, the monthly
 536 | amount of retirement income shall be computed as described in
 537 | paragraph (a), taking into account his or her credited service
 538 | to the date of actual retirement and his or her final average
 539 | salary as of such date. The amount of retirement income shall be
 540 | actuarially reduced to take into account the member's younger
 541 | age and earlier commencement of retirement income benefits. The
 542 | early retirement reduction shall be 3 percent for each year by
 543 | which the member's age at retirement precedes ~~preceeded~~ the
 544 | member's normal retirement age.

545 | (d) Supplemental pension distribution.—

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546 1.a. The actuary for the Pension Fund shall determine the
547 rate of investment return earned on Pension Fund assets during
548 the 12-month period ending each September 30. The rate
549 determined shall be the rate reported in the most recent
550 actuarial report submitted pursuant to part VII of chapter 112,
551 Florida Statutes.

552 b. The actuary for the Pension Fund shall determine the
553 actuarial present value, as of September 30, of future pension
554 payments to eligible persons, as described in subparagraph 3.,
555 who are then being paid a pension. The actuarial present values
556 shall be calculated using an interest rate ~~of 7 percent per year~~
557 ~~compounded yearly~~ and a mortality table ~~as approved by the Board~~
558 ~~of Trustees and~~ as used in the most recent actuarial report
559 submitted pursuant to part VII of chapter 112, Florida Statutes.

560 c. A distribution amount shall be determined as of each
561 September 30. For distributions made after October 1, 1998,
562 there shall be two different calculations to determine the
563 distribution amount. For those employees who retire on or after
564 October 1, 1998, or who are part of the DROP on or after October
565 1, 1998, the distribution amount shall be equal to factor (i)
566 for each applicable member multiplied by the sum of factor (ii)
567 and the positive difference, if any, between factor (iii) and
568 8.25 percent. For those employees who have retired before
569 October 1, 1998, except as provided in this sub-subparagraph,
570 the distribution amount shall be equal to factor (i) for each

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571 applicable member multiplied by the sum of factor (ii) and the
572 positive difference, if any, between factor (iii) and 7 percent.
573 For purposes of both calculations, factor (i) is the actuarial
574 present value determined in sub-subparagraph b. for the
575 respective group. Factor (ii) is one-half of the investment
576 return rate in sub-subparagraph a. in excess of 9 percent.
577 Factor (iii) is the rate of investment return in sub-
578 subparagraph a., not to exceed 9 percent. The distribution
579 amount shall not exceed accumulated net actuarial experience
580 from all pension liabilities and assets. If the net actuarial
581 experience is favorable, cumulatively, commencing with the
582 experience for the year ended September 30, 1985, after offset
583 for all prior supplemental distributions, the supplemental
584 distribution may be made. If the net actuarial experience is
585 unfavorable, cumulatively, commencing with the experience for
586 the year ended September 30, 1985, after offset for all prior
587 supplemental distributions, no supplemental distribution may be
588 made, and the City must amortize the loss until it is offset by
589 cumulative favorable experience.

590
591 If an actuarial report submitted as provided in this paragraph
592 is not state accepted prior to distribution, and if a deficiency
593 to the Pension Fund results, the deficiency shall be made up
594 from the next available supplemental pension distribution,
595 unless sooner made up by agreement between the Board of Trustees

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596 and the City. No such deficiency shall be permitted to continue
 597 for a period of greater than 3 years from the date of payment of
 598 the supplemental pension distribution which resulted in the
 599 deficiency.

600 2. The Board of Trustees shall determine annually if there
 601 is to be a supplemental pension distribution. The supplemental
 602 pension distribution is that portion of the distribution amount,
 603 as defined in sub-subparagraph 1.c., to be distributed to
 604 eligible persons.

605 3. Eligible persons are:

- 606 a. Pensioners.
- 607 b. Surviving spouses.
- 608 c. Surviving dependent children.
- 609 d. Surviving dependent parents.
- 610 e. Pensioners' estates for the year following death only.

611 Eligible persons are initially eligible if they have been in
 612 receipt of a pension for at least 1 year on the first
 613 distribution date following their retirement. A survivor
 614 beneficiary of a deceased retired member shall be considered to
 615 have been in receipt of a pension for at least 1 year if at
 616 least 12 monthly pension payments have been made on account of
 617 the retirement. A surviving spouse may count the retirement
 618 period, if any, of the deceased member toward the 1-year
 619 requirement. ~~Surviving spouses, children, and parents and~~
 620 ~~retired members who receive pension adjustments under the prior~~

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621 ~~escalator clause are not eligible for the supplemental pension~~
622 ~~distribution.~~

623 4. The supplemental pension distribution dates shall be
624 the April 1 following the effective date of this subsection and
625 each April 1 thereafter. Each eligible person shall be paid his
626 or her allocated portion of the applicable supplemental pension
627 distribution amount from the preceding September 30. A
628 pensioner's estate is entitled to a pro rata share of the
629 deceased retiree's supplemental pension distribution based on
630 the number of months that the deceased retiree received a
631 pension during the year ending the September 30 prior to the
632 pensioner's death after initial eligibility.

633 5. Each supplemental pension distribution amount shall be
634 allocated among the eligible persons in the proportion that an
635 eligible person's supplemental pension distribution points bears
636 to the aggregate amount of supplemental pension distribution
637 points of all eligible persons. An eligible person shall be
638 credited with supplemental pension distribution points as
639 follows:

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

645 b. Maximum service credit shall be 26 years.

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646 c. Allocations for surviving spouses and surviving
647 dependent children who are eligible to receive supplemental
648 pension distributions shall be 75 percent of the years of
649 service earned by the pensioner. Allocations for duty death
650 beneficiaries (surviving spouse and surviving children) shall be
651 based upon 75 percent of 26 years of service.

652 (g) Optional forms of retirement income.—

653 1.a. In the event of normal, early, or disability
654 retirement, in lieu of the normal form of retirement income
655 payable as specified in paragraph (a), paragraph (b), paragraph
656 (c), or subsection (6) and in lieu of the beneficiary benefits
657 as specified in subsection (7), a member, upon written request
658 to the Board and subject to the approval of the Board, may elect
659 to receive a retirement income of equivalent actuarial value
660 payable in accordance with one of the following options:

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

664 (II) Joint and survivor option.—A retirement income of a
665 modified monthly amount, payable to the member during the joint
666 lifetime of the member and a dependent joint pensioner
667 designated by the member, and following the death of either of
668 them, 100 percent, 75 percent, 66-2/3 percent, or 50 percent of
669 such monthly amounts, payable to the survivor for the lifetime
670 of the survivor.

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671 b. The member, upon electing any option of this paragraph,
672 shall designate the joint pensioner or beneficiary or
673 beneficiaries to receive the benefit, if any, payable in the
674 event of his or her death, and will have the power to change
675 such designation from time to time; but any such change shall be
676 deemed a new election and shall be subject to approval by the
677 Board. Such designation shall name a joint pensioner or one or
678 more primary beneficiaries where applicable. If a member has
679 elected an option with a joint pensioner or beneficiary and his
680 or her retirement income benefits have commenced, he or she may
681 thereafter change the designated joint pensioner or beneficiary
682 only twice. Notwithstanding any other provision of this section,
683 a retired member may change his or her designation of joint
684 annuitant or beneficiary up to two times as provided in section
685 175.333, Florida Statutes, without the approval of the Board or
686 the current joint annuitant or beneficiary. The retiree is not
687 required to provide proof of the good health of the joint
688 annuitant or beneficiary being removed, and the joint annuitant
689 or beneficiary being removed need not be living. Any retired
690 member who desires to change his or her joint annuitant or
691 beneficiary shall file with the Board a notarized notice of such
692 change. Upon receipt of a completed change of joint annuitant
693 form or such other notice, the Board shall adjust the member's
694 monthly benefit by the application of actuarial tables and
695 calculations developed to ensure that the benefit paid is the

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696 actuarial equivalent of the present value of the member's
697 current benefit and there is no impact to the plan.

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

700 d. For any additional changes in beneficiaries or joint
701 annuitant beyond the two in paragraph (a), the Board may request
702 such evidence of the good health of the joint pensioner that is
703 being added as it may require; and the amount of the retirement
704 income payable to the retiree ~~member~~ upon the designation of a
705 new joint pensioner shall be actuarially redetermined, taking
706 into account the age and sex of the former joint pensioner, the
707 new joint pensioner, and the member. Each such designation shall
708 be filed with the Board. In the event that no designated
709 beneficiary or joint annuitant survives the member, such
710 benefits as are payable in the event of the death of the member
711 subsequent to his or her retirement shall be paid as provided in
712 subparagraph (h)2.

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

716 a. If a member dies prior to his or her normal retirement
717 date or early retirement date, whichever first occurs,
718 retirement benefits shall be paid in accordance with subsection
719 (7).

720 b. If the designated beneficiary or beneficiaries or joint

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721 pensioner dies before the member's retirement, the option
722 elected shall be canceled automatically and a retirement income
723 of the normal form and amount shall be payable to the member
724 upon the member's retirement as if the election had not been
725 made, unless a new election is made in accordance with the
726 provisions of this paragraph or a new beneficiary is designated
727 by the member prior to retirement.

728 c. If both the retiree and the beneficiary, or
729 beneficiaries, designated by the member or retiree die before
730 the full payment has been effected under any option providing
731 for payments for a period certain and life thereafter, made
732 pursuant to the provisions of paragraph (a), the Board may, in
733 its discretion, direct that the commuted value of the remaining
734 payments be paid in a lump sum.

735 ~~d.e.~~ If a member continues in the employ of the Department
736 after meeting the age and service requirements set forth in
737 paragraph (a) or paragraph (c) and dies prior to the member's
738 actual retirement, and while an option made pursuant to this
739 subparagraph is in effect, monthly retirement income payments
740 shall be paid, under the option, to a beneficiary or
741 beneficiaries or joint annuitant designated by the member in the
742 amount or amounts computed as if the member has retired under
743 the option on the date on which the member's death occurred.

744 e. The member's benefit under this section must begin to
745 be distributed to the member no later than the member's required

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746 beginning date, as provided under subsection (18).

747 3. No member may make any change in his or her retirement
 748 option after the date of the first DROP deposit, the deposit of
 749 the BackDROP calculated balance, or the cashing or deposit of
 750 depositing the first retirement check.

751 4. Notwithstanding anything herein to the contrary, the
 752 Board, in its discretion, may elect to make a lump sum payment
 753 to a member or a member's beneficiary in the event that the
 754 total commuted value of the monthly income payments to be paid
 755 does not exceed \$7,000. Any such payment made to any person
 756 pursuant to the power and discretion conferred upon the Board
 757 under this subparagraph shall operate as a complete discharge of
 758 all obligations under the system with regard to such member and
 759 shall not be subject to review by anyone, but shall be final,
 760 binding, and conclusive on all persons.

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

762 1. Individual member accounts.—A notional separate account
 763 shall be established and maintained in each member's name
 764 effective on or after October 1, 1988.

765 2. Share account funding.—

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

769 ~~I. For the chapter 175 funds received in calendar years~~
 770 ~~2012, 2013, and 2014, the full amount of the chapter 175 funds~~

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771 ~~shall be used to reduce the employee contributions to 13.1~~
 772 ~~percent as provided for in subsection (3) (a).~~

773 ~~II. Effective October 1, 2015, the employee contribution~~
 774 ~~rate will be as set forth in the table and beginning with the~~
 775 ~~chapter 175 funds received in calendar year 2015, a portion of~~
 776 ~~the chapter 175 funds will be used to reduce the employee~~
 777 ~~contributions and the remainder will be allocated to the share~~
 778 ~~accounts provided for in paragraph (5) (j), in accordance with~~
 779 ~~the following schedule:~~

			Actual	
Year	Employee Contribution Amount (%)	Allocation to Reduce Contributions	Employee Contribution Rate	Allocation to Share Accounts (%)

780				
781				
782	2015	22%	85%	13.1%
783	2016	20%	65%	13.1%
784	2017	17%	35%	13.1%

785 ~~III. Effective October 1, 2018, the employee contributions~~
 786 ~~shall be 13.1 percent and the chapter 175 money received in~~
 787 ~~calendar year 2018 and thereafter shall be allocated to the~~
 788 ~~share accounts.~~

789 ~~b. In addition, any forfeitures as provided in~~
 790 ~~subparagraph 5. shall be credited to the individual member~~

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791 accounts in accordance with the formula set forth in
792 subparagraph 3.

793 3. Annual allocation of accounts.—

794 a. Moneys shall be credited to each individual member
795 account in an amount directly proportionate to the number of pay
796 periods for which the member was paid compared to the total
797 number of pay periods for which all members were paid, counting
798 the pay periods in the calendar year preceding the date for
799 which chapter 175, Florida Statutes, tax revenues were received.
800 Share account allocations made on and after October 1, 2004,
801 shall be made to each individual share account.

802 b. At the end of each fiscal quarter, each individual
803 account shall be adjusted to reflect the earnings or losses
804 resulting from investment, as well as reflecting costs, fees,
805 and expenses of administration.

806 c.(I) Effective for members who reached normal retirement
807 age on or before May 13, 2012, or members who have a calculated
808 BackDROP date of October 1, 2011, or earlier, vested
809 participants have the option to select one of three methods to
810 credit investment earnings to their account. The method may be
811 changed each year effective October 1; however, the method must
812 be elected prior to October 1. The methods are:

813 A. The investment earnings or losses credited to the
814 individual member accounts shall be in the same percentage as
815 are earned or lost by the total investment earnings or losses of

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816 | the Fund as a whole, unless the Board dedicates a separate
817 | investment portfolio for chapter 175, Florida Statutes, share
818 | accounts, in which case the investment earnings or losses shall
819 | be measured by the investment earnings or losses of the separate
820 | investment portfolio;

821 | B. A fixed annual rate of 8.25 percent for members who
822 | reached normal retirement age on or before May 13, 2012, or
823 | members that have a calculated BackDROP date of October 1, 2011,
824 | or earlier. Effective May 13, 2012, the fixed rate is 4 percent
825 | for members who retire on or after May 13, 2012, and before
826 | October 1, 2015; or

827 | C. A percentage of the share account assets to be credited
828 | with earnings or losses in accordance with sub-sub-sub-
829 | subparagraph A. and a corresponding percentage of the share
830 | account assets credited in accordance with sub-sub-sub-
831 | subparagraph B. The combined total percentage invested under
832 | this sub-sub-sub-subparagraph must equal 100 percent.

833 | (III) Effective after October 1, 2015, vested participants
834 | have the option to select one of two methods to credit
835 | investment earnings to their account. The method may be changed
836 | each year effective October 1; however, the method must be
837 | elected prior to October 1. The methods are:

838 | A. The investment earnings or losses credited to the
839 | individual member accounts shall be in the same percentage as
840 | are earned or lost by the total investment earnings or losses of

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841 the Fund as a whole, unless the Board dedicates a separate
842 investment portfolio for chapter 175, Florida Statutes, share
843 accounts, in which case the investment earnings or losses shall
844 be measured by the investment earnings or losses of the separate
845 investment portfolio; or

846 B. The rate of investment return earned on Pension Fund
847 assets as reported by the Fund's investment monitor. The
848 crediting rate maximum is 8 percent and the crediting rate floor
849 is 0 percent. To accomplish this, the crediting rate will be
850 compounded monthly at a rate between 0 percent and 2 percent
851 quarterly. BackDROP assets are commingled with the Pension Fund
852 assets for investment purposes unless the Board dedicates a
853 separate investment portfolio for chapter 175, Florida Statutes,
854 share accounts, in which case the investment earnings or losses
855 shall be measured by the investment earnings or losses of the
856 separate investment portfolio.

857 (III) The Board has the authority to create rules to
858 implement the provisions of this section in accordance with the
859 law and the provisions of the Internal Revenue Code.

860 d. Costs, fees, and expenses of administration shall be debited
861 from the individual member accounts on a proportionate basis,
862 taking the cost, fees, and expenses of administration of the
863 Fund as a whole, multiplied by a fraction, the numerator of
864 which is the total assets in all individual member accounts and
865 the denominator of which is the total assets of the Fund as a

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866 whole. The proportionate share of the costs, fees, and expenses
 867 shall be debited from each individual member account on a pro
 868 rata basis in the same manner as chapter 175, Florida Statutes,
 869 tax revenues are credited to each individual member account
 870 (i.e., based on pay periods).

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

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

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

880 (I) A nonduty disability pension as provided in paragraph
 881 (6) (a); or

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

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

886 (I) A duty disability pension as provided in paragraph
 887 (6) (c); or

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

890 5. Forfeitures.—Any member who has less than 10 years of

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891 credited service and who is not eligible for payment of benefits
892 after termination of employment with the City shall forfeit his
893 or her individual member account. The amounts credited to said
894 individual member account shall be redistributed to the other
895 individual member accounts in the same manner as chapter 175,
896 Florida Statutes, tax revenues are credited (i.e., based on pay
897 periods). However, the assets shall first be used to ensure that
898 the former member's refund of contributions has not actuarially
899 adversely impacted the payment for the extra benefits. If there
900 has been an adverse impact, the shortfall shall be made up first
901 before the amounts are reallocated to active members.

902 6. Payment of benefits.—The normal form of benefit payment
903 shall be a lump sum payment of the entire balance of the
904 individual member account. Effective October 1, 2015, each
905 member may leave his or her money in the share account until the
906 latest day under subsection (18), choose a lump sum
907 distribution; or, upon the written election of the member, upon
908 a form prescribed by the Board, payment may be made either by:

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

912 b. Annuity.—The account balance shall be paid out in
913 monthly installments over the lifetime of the member or until
914 the entire balance is exhausted. The monthly amount paid shall
915 be determined by the Fund's actuary in accordance with

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916 | selections made by the member in a form provided by the Board.

917 | c. Periodic partial lump sums.—The member may make
 918 | periodic partial lump sum withdrawals.

919 | 7. Death of a member.—If a member dies and is eligible for
 920 | benefits from the individual member account, the entire balance
 921 | of the individual member account shall be paid in a lump sum to
 922 | the beneficiaries designated in accordance with paragraph (h).
 923 | If a member fails to designate a beneficiary or, if the
 924 | beneficiary predeceases the member, the entire balance shall be
 925 | paid in a lump sum in the following order:

926 | a. To the spouse;

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

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

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

932 | (k) Deferred Retirement Option Plan (DROP).—Effective upon
 933 | the ratification of the collective bargaining agreement between
 934 | the City of West Palm Beach and the West Palm Beach Association
 935 | of Firefighters, Local 727-IAFF, October 1, 2003–September 30,
 936 | 2006, no new members may enter into the DROP. Existing DROP
 937 | members on the ratification date shall have the option to remain
 938 | in the DROP for the remainder of their individual 5-year terms.

939 | 1. Eligibility to participate in the DROP.—

940 | a. Any member who is eligible to receive an early or

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941 normal retirement pension may participate in the DROP. Members
942 shall elect to participate by applying to the Board of Trustees
943 on a form provided for that purpose.

944 b. Election to participate shall be forfeited if not
945 exercised within the first 35 years of combined credited
946 service.

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

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

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

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

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

958 d. Upon a member's election to participate in the DROP, he or
959 she shall cease to be a member and shall no longer accrue any
960 benefits under the Pension Fund, except for the benefits
961 provided under paragraph (j) of this subsection, chapter 175,
962 Florida Statutes, share accounts. For all Fund purposes, the
963 member becomes a retirant, except that a DROP participant shall
964 continue to receive shares of the chapter 175, Florida Statutes,
965 money in accordance with paragraph (j), chapter 175, Florida

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966 Statutes, share accounts. The amount of credited service and
 967 final average salary shall freeze as of the date of entry into
 968 the DROP.

969 2. Amounts payable upon election to participate in the
 970 DROP.—

971 a. Monthly retirement benefits that would have been
 972 payable had the member terminated employment with the Department
 973 and elected to receive monthly pension payments shall be paid
 974 into the DROP and credited to the retirant. Payments into the
 975 DROP shall be made monthly over the period the retirant
 976 participates in the DROP, up to a maximum of 60 months.

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

982 (I) Earnings using the rate of investment return earned on
 983 Pension Fund assets as reported by the Fund's investment
 984 monitor. DROP assets are commingled with the Pension Fund assets
 985 for investment purposes;

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

988 (III) A percentage of the DROP account assets to be
 989 credited with earnings or losses in accordance with sub-sub-
 990 subparagraph (I) and a corresponding percentage of the DROP

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

994 However, if a member does not terminate employment at the end of
995 participation in the DROP, interest credit shall cease on the
996 balance.

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

999 d. Upon termination of employment, participants in the
1000 DROP shall receive the balance of the DROP account in accordance
1001 with the following rules:

1002 (I) Members may elect to begin to receive payment upon
1003 termination of employment or defer payment of the DROP until the
1004 latest day under sub-sub-subparagraph (III).

1005 (II) Payments shall be made in either:

1006 (A) Lump sum.—The entire account balance shall be paid to
1007 the retirant upon approval of the Board of Trustees.

1008 (B) Installments.—The account balance shall be paid out to
1009 the retirant in three equal payments paid over 3 years, the
1010 first payment to be made upon approval of the Board of Trustees.

1011 (C) Annuity.—The account balance shall be paid out in
1012 monthly installments over the lifetime of the member or until
1013 the entire balance is exhausted. Monthly amount paid will be
1014 determined by the Fund's actuary in accordance with selections
1015 made by the member in a form provided by the Board of Trustees.

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1016 (D) Periodic partial lump sums.—The member may make
 1017 periodic partial lump sum withdrawals.

1018 (III) Any form of payment selected by a member must comply
 1019 with the minimum distribution requirements of the IRC 401(a)(9),
 1020 and are subject to the requirements of subsection (18).

1021 (IV) The beneficiary of the DROP participant who dies
 1022 before payments from DROP begin shall have the same right as the
 1023 participant in accordance with subsection (7).

1024 e. Costs, fees, and expenses of administration shall be
 1025 debited from the individual member accounts on a proportionate
 1026 basis, taking the cost, fees, and expenses of administration of
 1027 the Fund as a whole, multiplied by a fraction, the numerator of
 1028 which is the total assets in all individual member accounts and
 1029 the denominator of which is the total assets of the Fund as a
 1030 whole.

1031 3. Loans from the DROP.—

1032 a. Availability of loans.—

1033 (I) Loans are available to members only after termination
 1034 of employment, provided the member had participated in the DROP
 1035 for a period of 12 months.

1036 (II) Loans may only be made from a member's own account.

1037 (III) There may be no more than one loan at a time.

1038 b. Amount of loan.—

1039 (I) Loans may be made up to a maximum of 50 percent of
 1040 account balance.

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1041 (II) The maximum dollar amount of a loan is \$50,000,
 1042 reduced by the highest outstanding loan balance during the last
 1043 12 months.

1044 (III) The minimum amount of a loan is \$5,000.

1045 c. Limitation on loans.—Loans shall be made from the
 1046 amounts paid into the DROP and earnings thereon.

1047 d. Term of loan.—

1048 (I) A loan must be for at least 1 year.

1049 (II) A loan shall be for no longer than 5 years.

1050 e. Loan interest rate.—

1051 (I) The interest rate shall be fixed at the time the loan
 1052 is originated for the entire term of the loan.

1053 (II) The interest rate shall be equal to the lowest prime
 1054 rate published by the Wall Street Journal on the last day of
 1055 each calendar quarter preceding the date of the loan
 1056 application.

1057 f. Defaults of loans.—

1058 (I) A loan shall be in default if 2 consecutive months of
 1059 repayments are missed or if a total of 4 months of repayments is
 1060 missed.

1061 (II) Upon default, the entire balance of the loan becomes
 1062 due and payable immediately.

1063 (III) If a loan in default is not repaid in full
 1064 immediately, the loan may be canceled and the outstanding
 1065 balance treated as a distribution, which may be taxable.

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1066 (IV) Upon default of a loan, a member shall not be
 1067 eligible for additional loans.

1068 g. Miscellaneous provisions.—

1069 (I) All loans must be evidenced by a written loan
 1070 agreement signed by the member and the Board of Trustees. The
 1071 agreement shall contain a promissory note.

1072 (II) A member's spouse must consent in writing to the
 1073 loan. The consent shall acknowledge the effect of the loan on
 1074 the member's account balance.

1075 (III) Loans shall be considered general assets of the
 1076 Fund.

1077 (IV) Loans shall be subject to administrative fees to be
 1078 set by the Board of Trustees.

1079 4. After-tax contributions to the DROP.—

1080 a. A member may make after-tax contributions to the DROP.
 1081 The maximum amount that may be contributed is the lesser of:

1082 (I) The IRS 415(c) limit.

1083 (II) The amount allowable under IRC 401(m).

1084 b. After-tax contributions to the DROP shall earn interest
 1085 in the same manner as set forth in sub-subparagraph 2.b.

1086 c. Distributions to members or their beneficiaries of
 1087 after-tax contributions may be withdrawn at any time on or after
 1088 termination of employment. However, payments must be made at
 1089 least as promptly as required under subsection (18).

1090 d. Loans shall not be made against after-tax

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1091 contributions.

1092 (1) Backwards Deferred Retirement Option Plan (BackDROP).—

1093 1. Eligibility to participate in the BackDROP.—

1094 a. Any member who has attained age 53 with 18 or more
 1095 years of service, who has attained age 58 with 13 or more years
 1096 of service, or who has acquired 26 years of service regardless
 1097 of age may participate in the BackDROP. Members shall elect to
 1098 participate by applying to the Board of Trustees on a form
 1099 provided for that purpose. A member may not participate in both
 1100 the DROP and the BackDROP.

1101 b. A member shall not be eligible to receive a BackDROP
 1102 benefit that is greater than an accumulation of 60 months of the
 1103 monthly retirement benefit. A member shall not be eligible to
 1104 receive a benefit which is less than an accumulation of 36
 1105 months of the monthly retirement benefit. Effective October 1,
 1106 2015, a member who retires after October 1, 2015, who does not
 1107 have a calculated BackDROP date of October 1, 2011, can choose a
 1108 BackDROP benefit which is the accumulation of between 1 month
 1109 and 60 months.

1110 c. Member contributions shall continue throughout the
 1111 period of employment and are not refundable for the BackDROP
 1112 period.

1113 d. Members who elect to participate in the BackDROP must
 1114 retire and terminate employment to be eligible for payment of
 1115 the benefit.

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1116 e. Any member who terminates employment by any means,
 1117 including death, prior to attaining age 53 with 18 or more years
 1118 of service or age 58 with 13 or more years of service or by
 1119 acquiring 26 years of service is not eligible to participate in
 1120 the BackDROP.

1121 2. Benefits payable upon election to participate in the
 1122 BackDROP.—

1123 a. Upon election to receive the BackDROP benefit, a
 1124 member's retirement benefits will be calculated as if the member
 1125 had chosen to retire and terminate employment at a date which is
 1126 more than 36 months but less than 60 months earlier. The number
 1127 of months to be applied is based upon the member's election. The
 1128 monthly pension amount shall be multiplied by the number of
 1129 months of BackDROP selected by the member, which shall be
 1130 between 36 and 60 months, inclusive. The BackDROP benefit shall
 1131 be calculated as a single sum, including interest at the rate of
 1132 8.25 percent less expenses, compounded annually for the period
 1133 of BackDROP for members who have reached normal retirement age
 1134 on or before May 13, 2012, or who have a calculated BackDROP
 1135 date of October 1, 2011, or earlier. Effective for retirements
 1136 after May 13, 2012, the interest rate shall be 4 percent, less
 1137 expenses, compounded annually for the period of BackDROP.
 1138 Effective October 1, 2015, a member who retires after October 1,
 1139 2015, who does not have a calculated BackDROP date of October 1,
 1140 2011, can choose a BackDROP benefit which is the accumulation of

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1141 | between 1 month and 60 months.

1142 | b. No payments shall be made from the BackDROP until the
1143 | member terminates employment with the Department.

1144 | c.(I) Effective for retirements after October 1, 2015,
1145 | participants in the BackDROP may leave their money in the
1146 | account until the latest day under subsection (18) or choose
1147 | payments as follows:

1148 | (A) A lump sum.—The entire account balance shall be paid
1149 | to the retirant upon approval of the Board of Trustees.

1150 | (B) Installments.—The account balance shall be paid out to
1151 | the retirant in three equal payments paid over 3 years, the
1152 | first payment to be made upon approval of the Board of Trustees.

1153 | (C) Annuity.—The account balance shall be paid out in
1154 | monthly installments over the lifetime of the member or until
1155 | the entire balance is exhausted. The monthly amount paid shall
1156 | be determined by the Fund's actuary in accordance with
1157 | selections made by the member in a form provided by the Board of
1158 | Trustees.

1159 | (D) Periodic partial lump sums.—The retirant may make
1160 | periodic partial lump sum withdrawals.

1161 | d. Any form of payment selected by a member must comply
1162 | with the minimum distribution requirements of the IRC 401(a)(9),
1163 | and are subject to the requirements of subsection (18).

1164 | (III) The beneficiary of the BackDROP member shall have
1165 | the same right as the participant in accordance with subsection

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1166 (7).

1167 3. BackDROP earnings.—

1168 a. Effective for members who reached normal retirement age
 1169 on or before May 13, 2012, or members who have a calculated
 1170 BackDROP date of October 1, 2011, or earlier, BackDROP members
 1171 may select one of three methods to credit investment earnings to
 1172 their accounts. Investment earnings shall be credited on a
 1173 quarterly basis. The method may be changed each year effective
 1174 October 1; however, the method must be elected prior to October
 1175 1. The methods are:

1176 (I) The BackDROP is credited with earnings and losses
 1177 using the rate of investment return earned on Pension Fund
 1178 assets as reported by the Fund's investment monitor. BackDROP
 1179 assets are commingled with the Pension Fund assets for
 1180 investment purposes;

1181 (II) A fixed rate of 8.25 percent for members who reached
 1182 normal retirement age on or before May 13, 2012, or members who
 1183 have a calculated BackDROP date of October 1, 2011, or earlier.
 1184 Effective May 13, 2012, the fixed rate is 4 percent for members
 1185 who retire on or after May 13, 2012, but before October 1, 2015;
 1186 or

1187 (III) A percentage of the BackDROP account assets to be
 1188 credited with earnings or losses in accordance with sub-sub-
 1189 subparagraph (I) and a corresponding percentage of the BackDROP
 1190 account assets credited in accordance with sub-sub-subparagraph

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1191 (II). The combined total percentage invested under this sub-sub-
 1192 subparagraph must equal 100 percent.

1193 c. Effective for BackDROP participants electing the
 1194 BackDROP on or after October 1, 2015, members who have elected
 1195 the BackDROP and leave the assets in the Fund to be invested may
 1196 select one of two methods to credit investment earnings to their
 1197 accounts. Investment earnings shall be credited on a quarterly
 1198 basis. The method may be changed each year effective October 1;
 1199 however, the method must be elected prior to October 1. The
 1200 methods are:

1201 (I) The BackDROP is credited with earnings and losses
 1202 using the rate of investment return earned on Pension Fund
 1203 assets as reported by the Fund's investment monitor. BackDROP
 1204 assets are commingled with the Pension Fund assets for
 1205 investment purposes; or

1206 (II) The BackDROP is credited with the rate of investment
 1207 return earned on Pension Fund assets as reported by the Fund's
 1208 investment monitor. The crediting rate maximum is 8 percent and
 1209 the crediting rate floor is 0 percent. To accomplish this, the
 1210 crediting rate will be compounded monthly at a rate between 0
 1211 percent and 2 percent quarterly. BackDROP assets are commingled
 1212 with the Pension Fund assets for investment purposes.

1213 c. The Board has the authority to create rules to
 1214 implement the provisions of this section in accordance with the
 1215 law and the provisions of the Internal Revenue Code.

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1216 d. Costs, fees, and expenses of administration shall be
 1217 debited from the individual member BackDROP accounts on a
 1218 proportionate basis, taking the cost, fees, and expenses of
 1219 administration of the Fund as a whole, multiplied by a fraction,
 1220 the numerator of which is the total of assets in all individual
 1221 member accounts and the denominator of which is the total of
 1222 assets of the Fund as a whole.

1223 4. Loans from the BackDROP.—

1224 a. Availability of loans.—

1225 (I) Loans are available to members who reached normal
 1226 retirement age on or before May 13, 2012, or members who have a
 1227 calculated BackDROP date of October 1, 2011, or earlier only
 1228 after termination of employment, provided the member had
 1229 participated in the BackDROP for a period of at least 12 months.

1230 (II) Loans may only be made from a member's own account.

1231 (III) There may be no more than one loan at a time.

1232 b. Amount of loan.—

1233 (I) Loans may be made up to a maximum of 50 percent of
 1234 account balance.

1235 (II) The maximum dollar amount of a loan is \$50,000,
 1236 reduced by the highest outstanding loan balance during the last
 1237 12 months.

1238 (III) The minimum amount of a loan is \$5,000.

1239 c. Limitation on loans.—Loans shall be made from the
 1240 amounts paid into the BackDROP and earnings thereon.

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1241 d. Term of loan.—
 1242 (I) A loan must be for at least 1 year.
 1243 (II) A loan shall be for no longer than 5 years.
 1244 e. Loan interest rate.—
 1245 (I) The interest rate shall be fixed at the time a loan is
 1246 originated for the entire term of the loan.
 1247 (II) The interest rate shall be equal to the lowest prime rate
 1248 published by the Wall Street Journal on the last day of each
 1249 calendar quarter preceding the date of the loan application.
 1250 f. Defaults of loans.—
 1251 (I) A loan shall be in default if 2 consecutive months of
 1252 repayments are missed or if a total of 4 months of repayments is
 1253 missed.
 1254 (II) Upon default of a loan, the entire balance of the
 1255 loan becomes due and payable immediately.
 1256 (III) If a loan in default is not repaid in full
 1257 immediately, the loan may be canceled and the outstanding
 1258 balance treated as a distribution, which may be taxable.
 1259 (IV) Upon default of a loan, a member shall not be eligible for
 1260 additional loans.
 1261 g. Miscellaneous provisions.—
 1262 (I) All loans must be evidenced by a written loan
 1263 agreement signed by the member and the Board of Trustees. The
 1264 agreement shall contain a promissory note.
 1265 (II) A member's spouse must consent in writing to the

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1266 loan. The consent shall acknowledge the effect of the loan on
 1267 the member's account balance.

1268 (III) Loans shall be considered general assets of the
 1269 Fund.

1270 (IV) Loans shall be subject to administrative fees to be
 1271 set by the Board of Trustees.

1272 5. After-tax contributions to the BackDROP.—

1273 a. A member may make after-tax contributions to the
 1274 BackDROP. The maximum amount that may be contributed is the
 1275 lesser of:

1276 (I) The IRS 415(c) limit.

1277 (II) The amount allowable under IRC 401(m).

1278 b. After-tax contributions to the BackDROP shall earn
 1279 interest in the same manner as set forth in sub-subparagraph
 1280 3.a.

1281 c. Distributions to members or their beneficiaries of
 1282 after-tax contributions may be withdrawn at any time on or after
 1283 termination of employment. However, payments must be made at
 1284 least as promptly as required under subsection (18).

1285 d. Loans shall not be made against after-tax
 1286 contributions.

1287 (6) Disability pensions, medical examinations, return to
 1288 work, etc.—

1289 (c) Duty disability requirements.—Any member who is
 1290 regularly employed in the Department and who becomes physically

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1291 or mentally totally and permanently disabled to perform the
 1292 duties of a firefighter by reason of an injury or disease
 1293 arising out of and in the course of the performance of his or
 1294 her duties as a firefighter in the employ of the City, shall,
 1295 upon his or her application to the Board, be retired with a
 1296 disability pension provided for in this paragraph, provided that
 1297 after a medical examination of the member made by or under the
 1298 direction of the medical committee, the medical committee
 1299 reports to the Board in writing, whether:

1300 1. The member is wholly prevented from rendering useful
 1301 and efficient service as a firefighter; and

1302 2. The member is likely to remain so disabled continuously
 1303 and permanently.

1304
 1305 The Board shall admit and consider any other evidence that it
 1306 deems appropriate. ~~Any condition or impairment of health of a~~
 1307 ~~member caused by tuberculosis, hypertension, heart disease,~~
 1308 ~~hepatitis, or meningococcal meningitis resulting in total~~
 1309 ~~disability or death shall be presumed to have been accidental~~
 1310 ~~and suffered in the line of duty unless the contrary is shown by~~
 1311 ~~competent evidence, provided such member shall have successfully~~
 1312 ~~passed a physical examination before entering into such service,~~
 1313 ~~which examination failed to reveal any evidence of such~~
 1314 ~~condition. In order to be entitled to the presumption in the~~
 1315 ~~case of hepatitis, meningococcal meningitis, or tuberculosis,~~

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1316 ~~the member must meet the requirements of section 112.181,~~
 1317 ~~Florida Statutes.~~ The final decision as to whether a member
 1318 meets the requirements for a disability pension rests with the
 1319 Board, based on competent substantial evidence on the record as
 1320 a whole.

1321 (d) Duty disability pension benefits.—Upon retirement on
 1322 account of disability, as provided in paragraph (c), a member
 1323 shall receive a monthly pension for the remainder of his or her
 1324 life, equal to the greater of the following:

- 1325 1. Sixty-five percent of the final average salary; or
- 1326 2. The member's accrued benefit. If the accrued benefit is
 1327 the greater benefit, the full amount will be paid to the member,
 1328 but only the amount up to 65 percent will be considered payable
 1329 for purposes of the disability.

1330 (g) Duty-related presumptions.—

- 1331 1. Any condition or impairment of health of a member
 1332 caused by tuberculosis, hypertension, heart disease, hepatitis,
 1333 or meningococcal meningitis resulting in total disability or
 1334 death shall be presumed to have been accidental and suffered in
 1335 the line of duty unless the contrary is shown by competent
 1336 evidence, provided such member shall have successfully passed a
 1337 physical examination before entering into such service, which
 1338 examination failed to reveal any evidence of such condition.

- 1339 2. In order to be entitled to the presumption in the case
 1340 of hepatitis, meningococcal meningitis, or tuberculosis, the

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1341 member must meet the requirements of section 112.181, Florida
 1342 Statutes.

1343 3. If a member becomes totally and permanently disabled
 1344 due to a diagnosis or treatment of a cancer, as defined in
 1345 section 112.1816(1), Florida Statutes, the disability must be
 1346 considered line of duty as an irrebuttable presumption.

1347 ~~2. The sum of the following:~~

1348 ~~a. Two and one-half percent of the member's final average~~
 1349 ~~salary multiplied by the number of years, and fraction of a~~
 1350 ~~year, of his or her service credit to a maximum of 26 years of~~
 1351 ~~service, and 2 percent of his or her final average salary~~
 1352 ~~multiplied by the number of years, and fraction of a year, in~~
 1353 ~~excess of 26 years of service, for all years of service earned~~
 1354 ~~through September 30, 1988; and~~

1355 ~~b. Two percent of the member's final average salary~~
 1356 ~~multiplied by the number of years, and fraction of a year, of~~
 1357 ~~his or her service credit earned on or after October 1, 1988.~~

1358 (h)-(g) Payment of disability pensions.—Monthly disability
 1359 retirement benefits shall be payable as of the date the Board
 1360 determines that the member was entitled to a disability pension;
 1361 however, the first payment shall ~~actually~~ be due paid on the
 1362 first day of the first month after the Board determines such
 1363 entitlement. Any portion due for a partial month shall be paid
 1364 together with the first payment. If the member recovers from the
 1365 disability prior to his or her normal retirement date, the last

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1366 payment shall be the payment due next preceding the date of such
 1367 recovery or, if the member dies without recovering from his or
 1368 her disability, then the following shall apply:

1369 1. Married member.—~~Survivor Beneficiary~~ benefits as set
 1370 forth in subsection (7) shall be paid if, at the time of death,
 1371 the member was married or had a dependent child or children or
 1372 parent or parents; or

1373 2. Unmarried member with 10 years of service or more.—
 1374 Payments shall be made for the life of the retiree ~~until the~~
 1375 ~~member's death~~ or the 120th monthly payment, whichever is later;
 1376 or

1377 3. Unmarried member with less than 10 years of service.—
 1378 Payments shall be made until the member's death.
 1379 Any monthly retirement income payments due after the death of a
 1380 disabled member shall be paid to the retiree's ~~member's~~
 1381 designated joint annuitant ~~beneficiary or beneficiaries~~ or the
 1382 member's estate as provided in paragraph (5) (h) or subsection
 1383 (7), as applicable.

1384 (i) ~~(h)~~ Reexamination of disability retirant.—At least once
 1385 each year during the first 5 years following a member's
 1386 retirement on account of disability, and at least once in each
 1387 3-year period thereafter, the Board shall require any disability
 1388 retirant who has not attained age 50 to undergo a medical
 1389 examination to be made by or under the direction of a physician
 1390 designated by the Board. However, if a disability retirant has

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1391 lost the firefighter certification, as required by Florida
 1392 Statutes, then the reexamination is discretionary. If the
 1393 retirant refuses to submit to the medical examination in any
 1394 such period, his or her disability pension may be suspended by
 1395 the Board until withdrawal of such refusal. If such refusal
 1396 continues for 1 year, all of the retirant's rights in and to a
 1397 disability pension may be revoked by the Board. If, upon medical
 1398 examination of the retirant, the physician reports to the Board
 1399 that the retirant is physically able and capable of performing
 1400 the duties of a firefighter in the rank held by him or her at
 1401 the time of retirement, the member shall be returned to
 1402 employment in the Department at a salary not less than the
 1403 salary of the rank last held by him or her, provided that return
 1404 to the employ of the Department shall be subject to the approval
 1405 of the Fire Chief. Should the retirant become employed by the
 1406 City, his or her disability pension shall terminate.

1407 (j)~~(i)~~ Return to work of a disability retirant; service
 1408 credit.—In the event a disability retirant is returned to
 1409 employment in the department, as provided in paragraph (h), his
 1410 or her service credit at the time of disability retirement shall
 1411 be restored to his or her credit. In the event he or she retired
 1412 under the provisions of paragraph (c), he or she shall be given
 1413 service credit for the period he or she was in receipt of a
 1414 disability pension. If he or she retired under the provisions of
 1415 paragraph (a), he or she shall not be given service credit for

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1416 the period he or she was in receipt of a disability pension.
 1417 (k)~~(j)~~ Expenses of medical examinations for disability.—The
 1418 member shall be responsible for the expenses of the physician
 1419 the member designates for medical examinations required under
 1420 this subsection. Expenses for any other medical examinations
 1421 required under this subsection shall be paid by the Fund.
 1422 (7) Beneficiary benefits.—
 1423 (b) Death in the line of duty.—In the event a member dies
 1424 while in the employ of the Department, and the Board finds his
 1425 or her death to be the natural and proximate result of causes
 1426 arising out of and in the actual performance of duty as a
 1427 firefighter in the employ of the City, the below following
 1428 applicable pensions shall be paid. The duty-related presumptions
 1429 in paragraph (6) (g) apply to the determination of whether the
 1430 death arises out of the performance of duty.†
 1431 1. Surviving spouse's benefits.—The surviving spouse shall
 1432 receive a monthly pension equal to the greater of:
 1433 a. Sixty-six and two-thirds of the member's highest 12
 1434 months' salary or top step firefighter pay, whichever is
 1435 greater; or
 1436 b. The surviving spouse's share of the member's accrued
 1437 benefit. Upon the surviving spouse's death, the pension shall
 1438 terminate.
 1439 2. Benefits for children, surviving spouse, etc.—In the
 1440 event the deceased member does not leave a surviving spouse, or

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1441 if the surviving spouse shall die, and the member leaves an
1442 unmarried child or children under age 18, each such child shall
1443 receive a pension of an equal share of the pension to which the
1444 member's surviving spouse was or would have been entitled. Upon
1445 any such child's adoption, marriage, death, or attainment of age
1446 18, the child's pension shall terminate and said child's pension
1447 shall be apportioned to the deceased member's remaining eligible
1448 children under age 18.

1449 3. Benefits for dependent parents.—In the event a member
1450 dies and does not leave a surviving spouse or children eligible
1451 to receive a pension provided for in subparagraphs 1. and 2.,
1452 and the member leaves a parent or parents whom the Board finds
1453 to have been dependent upon the member for 50 percent or more of
1454 their financial support, each such parent shall receive a
1455 pension of an equal share of the pension to which said member's
1456 surviving spouse would have been entitled. Upon any such
1457 parent's remarriage or death, the parent's pension shall
1458 terminate.

1459 4. Estate.—In the event a member dies and does not leave a
1460 surviving spouse, children, or parents eligible to receive a
1461 pension provided for in subparagraph 1., subparagraph 2., or
1462 subparagraph 3., then the benefits remaining, if any, shall be
1463 paid to the member's designated beneficiary. If there is no
1464 designated beneficiary, any remaining benefits shall be paid to
1465 the member's estate.

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1466 (8) Acceptance of pension no bar to subsequent work.—The
 1467 acceptance of a pension by a member upon retirement shall not
 1468 bar the member from engaging in any other business thereafter,
 1469 except that a disability retiree cannot perform the functions of
 1470 a firefighter.

1471 (9) Pension not assignable or subject to garnishment.—The
 1472 pensions or other benefits accrued or accruing to any person
 1473 under the provision of this act and the accumulated
 1474 contributions and the cash securities in the Funds created under
 1475 this act shall not be subject to execution or attachment or to
 1476 any legal process whatsoever, and shall be unassignable.
 1477 However, pursuant to a court support order, the Trustees may
 1478 direct that the retirement benefits be paid for alimony or child
 1479 support in accordance with rules and regulations adopted by the
 1480 Board of Trustees. Upon written request by the retiree, the
 1481 Board of Trustees may authorize the Plan administrator to
 1482 withhold from the monthly retirement payment funds necessary to:

1483 (c) Pay for premiums for accident health and long-term
 1484 care insurance for the retiree's spouse and dependents
 1485 ~~dependants~~. A retirement plan does not incur liability for
 1486 participation in this permissive program if its actions are
 1487 taken in good faith pursuant to section 175.061(7), Florida
 1488 Statutes.

1489 (15) Review procedures.—

1490 (a) The applicant for benefits under this chapter may,

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1491 within 20 days after being informed of the denial of his or her
 1492 request for pension benefits, appeal the denial by filing a
 1493 reply to the proposed order with the pension's plan
 1494 administrator ~~secretary~~. If no appeal is filed within the time
 1495 period, then the proposed order shall be final.

1496 (b) The Board of Trustees shall hold a hearing within 90
 1497 ~~45~~ days after the receipt of the appeal. Written notice of the
 1498 hearing shall be sent by electronic or certified mail, return
 1499 receipt requested ~~receipt/restricted to individual~~, to the
 1500 applicant at the address listed on the application or to the
 1501 applicant's designated representative no less than 10 calendar
 1502 days prior to the hearing.

1503 (c) The procedures at the hearing shall be as follows:

1504 1. All parties shall have an opportunity to respond, to
 1505 present physical and testimonial evidence and argument on all
 1506 issues involved, to conduct cross-examination, to submit
 1507 rebuttal evidence, and to be represented by counsel. Medical
 1508 reports and depositions may be accepted in lieu of live
 1509 testimony at the Board's discretion.

1510 2. All witnesses shall be sworn.

1511 3. The applicant and the Board shall have an opportunity
 1512 to question all witnesses.

1513 4. While the Florida Rules of Civil Procedure and the
 1514 strict Florida Rules of Evidence do ~~Formal rules of evidence and~~
 1515 ~~formal rules of civil procedure shall not apply to these~~

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1516 proceedings, irrelevant and unduly repetitious evidence may be
 1517 excluded. Hearsay evidence may be used for the purpose of
 1518 supplementing or explaining other evidence, but it shall not be
 1519 sufficient in itself to support a finding unless it would be
 1520 admissible over objection in civil actions. The proceedings
 1521 shall comply with the essential requirements of due process and
 1522 law.

1523 5. The record in a case governed by this subsection shall
 1524 consist only of:

1525 a. A ~~tape~~ recording or transcript of the hearing, to be
 1526 ~~taped and~~ maintained as part of the official files of the Board
 1527 of Trustees by the ~~pension's secretary or plan's administrator.~~

1528 b. Evidence submitted for the record ~~received or~~
 1529 ~~considered.~~

1530 c. All notices, pleadings, motions, and intermediate
 1531 rulings.

1532 d. Any decisions, opinions, proposed or recommended
 1533 orders, or reports by the Board of Trustees.

1534 (d) Within a reasonable period after the hearing, the
 1535 Board shall take one of the following actions:

1536 1. Grant the pension benefits by overturning the proposed
 1537 order by a majority vote.

1538 2. Deny the benefits and approve the proposed order as a
 1539 final order after making any changes in the order the Board
 1540 feels is necessary.

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1541 (e) Findings of fact by the Board shall be based on
 1542 competent, substantial evidence on the record.

1543 (f) Upon ~~Within 20 calendar days after~~ rendering its
 1544 order, the Board of Trustees shall file a copy with the
 1545 administrator and send a copy of the order to the applicant, by
 1546 electronic or certified mail return receipt/restricted to
 1547 individual, ~~a copy of the order.~~

1548 (g) The applicant may seek review of the order by the
 1549 Board of Trustees by filing a petition for writ of certiorari
 1550 with the circuit court within 30 days of rendition.

1551 (17) Internal Revenue Code limits.—

1552 (a) In no event may a member's annual benefit exceed
 1553 \$280,000 in 2025 which is ~~\$160,000,~~ adjusted for cost of living
 1554 in accordance with Internal Revenue Code ("IRC") Section 415(d).

1555 (f)1. Effective for permissive service credit
 1556 contributions made in limitation years beginning after December
 1557 31, 1997, if a member makes one or more contributions to
 1558 purchase permissive service credit under the system, as allowed
 1559 in subsection (23), the requirements of this section will be
 1560 treated as met only if:

1561 a. The requirements of Code Section 415(b) are met,
 1562 determined by treating the accrued benefit derived from all such
 1563 contributions as an annual benefit for purposes of Code Section
 1564 415(b); or

1565 b. The requirements of Code Section 415(c) are met,

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1566 determined by treating all such contributions as annual
 1567 additions for purposes of Code Section 415(c).
 1568 c. For purposes of applying sub-subparagraph a., the
 1569 system will not fail to meet the reduced limit under Code
 1570 Section 415(b)(2)(C) solely by reason of this sub-subparagraph
 1571 c., and for purposes of applying sub-subparagraph b. the system
 1572 will not fail to meet the percentage limitation under Code
 1573 Section 415(c)(1)(B) solely by reason of this sub-subparagraph
 1574 c.
 1575 2. For purposes of this paragraph, the term "permissive
 1576 service credit" means service credit:
 1577 a. Recognized by the system for purposes of calculating a
 1578 member's benefit under the plan;
 1579 b. Which the member has not received under the plan; and
 1580 c. Which the member may receive only by making a voluntary
 1581 additional contribution, in an amount determined under the
 1582 system, which does not exceed the amount necessary to fund the
 1583 benefit attributable to such service credit.
 1584
 1585 Effective for permissive service credit contributions made in
 1586 limitation years beginning after December 31, 1997, such term
 1587 may, if otherwise provided by the system, include service credit
 1588 for periods for which there is no performance of service, and
 1589 may include service credited in order to provide an increased
 1590 benefit for service credit which a member is receiving under the

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1591 system.

1592 (g) If the plan accepts a direct rollover of an employee's

1593 or former employee's benefit from a defined contribution plan

1594 qualified under Code Section 401(a) which is maintained by the

1595 employer, any annuity resulting from the rollover amount that is

1596 determined using a more favorable actuarial basis than required

1597 under Code Section 417(e) shall be included in the annual

1598 benefit for purposes of the limit under Code Section 415(b).

1599 (18) Minimum distribution of benefits.—

1600 (a) General rules.—

1601 1. The plan will pay all benefits in accordance with good

1602 faith interpretation of the requirements of Code Section

1603 401(a) (9) and the regulations in effect under that section, as

1604 applicable to a governmental plan within the meaning of Code

1605 Section 414(d).

1606 2. The requirements of this section will take precedence

1607 over any inconsistent provisions of the plan.

1608 (b) Time and manner of distribution.—

1609 1. Required beginning date.—

1610 a. The member's entire interest will be distributed, or

1611 begin to be distributed, to the member no later than the

1612 member's required beginning date. The member's required

1613 beginning date is April 1 of the calendar year following the

1614 later of the calendar year in which the member attains the

1615 applicable age or the calendar year in which the member

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1616 terminates employment with the City.

1617 b. The applicable age is as follows:

1618 (I) For a member who attains age 70 1/2 before December
 1619 31, 2019, the applicable age is 70 1/2.

1620 (II) For a member who attains age 72 before January 1,
 1621 2023, the applicable age is 72.

1622 (III) For a member who attains age 72 after December 31,
 1623 2022, the applicable age is 73.

1624 (IV) For a member who attains age 74 after December 31,
 1625 2032, the applicable age is 75.

1626 2. Death of member before distribution begins.—If the
 1627 member dies before distributions begin, the member's entire
 1628 interest will be distributed, or begin to be distributed, no
 1629 later than as follows:

1630 a. If the member's surviving spouse is the member's sole
 1631 designated beneficiary, distributions to the surviving spouse
 1632 will begin by December 31 of the calendar year immediately
 1633 following the calendar year in which the member died, or by a
 1634 date on or before December 31 of the calendar year in which the
 1635 member would have attained the applicable age, as the surviving
 1636 spouse elects. Effective for calendar years beginning after
 1637 December 31, 2023, a surviving spouse who is the member's sole
 1638 designated beneficiary may elect to be treated as if the
 1639 surviving spouse were the employee as provided under Code
 1640 Section 401(a)(9)(B)(iv).

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1641 b. If the member's surviving spouse is not the member's
1642 sole designated beneficiary, distributions to the designated
1643 beneficiary will begin by December 31 of the calendar year
1644 immediately following the calendar year in which the member
1645 died, unless the beneficiary qualifies as an eligible designated
1646 beneficiary, in which case the benefit can be distributed within
1647 5 years after the member died.

1648 3. Death after distribution begins.—If the member dies
1649 after the required distribution of benefits has begun, the
1650 remaining portion of the member's interest must be distributed
1651 at least as rapidly as under the method of distribution before
1652 the member's death.

1653 4. Form of distribution.—Unless the member's interest is
1654 distributed in the form of an annuity purchased from an
1655 insurance company or in a single sum on or before the required
1656 beginning date, as of the first distribution calendar year
1657 distributions will be made in accordance with this section. If
1658 the member's interest is distributed in the form of an annuity
1659 purchased from an insurance company, distributions thereunder
1660 will be made in accordance with the requirements of Section
1661 401(a) (9) of the Code and Treasury regulations. Any part of the
1662 member's interest which is in the form of an individual account
1663 described in Code Section 414(k) will be distributed in a manner
1664 satisfying the requirements of Section 401(a) (9) of the Code and
1665 Treasury regulations that apply to individual accounts.

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1666 (c) Determination of amount to be distributed each year.—
1667 1. General requirements.—If the member's interest is paid
1668 in the form of annuity distributions under the plan, payments
1669 under the annuity will satisfy the following requirements:
1670 a. The annuity distributions will be paid in periodic
1671 payments made at intervals not longer than 1 year.
1672 b. The member's entire interest must be distributed
1673 pursuant to this plan document and in any event over a period
1674 equal to or less than the member's life or the lives of the
1675 member and a designated beneficiary, or over a period not
1676 extending beyond the life expectancy of the member or of the
1677 member and a designated beneficiary. The life expectancy of the
1678 member, the member's spouse, or the member's beneficiary may not
1679 be recalculated after the initial determination for purposes of
1680 determining benefits.
1681 2. Amount required to be distributed by required beginning
1682 date.—The amount that must be distributed on or before the
1683 member's required beginning date is the payment that is required
1684 for one payment interval. The second payment need not be made
1685 until the end of the next payment interval even if that payment
1686 interval ends in the next calendar year. Payment intervals are
1687 the periods for which payments are received, e.g., monthly. All
1688 of the member's benefit accruals as of the last day of the first
1689 distribution calendar year will be included in the calculation
1690 of the amount of the annuity payments for payment intervals

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1691 ending on or after the member's required beginning date.

1692 3. Additional accruals after first distribution calendar

1693 year.—Any additional benefits accruing to the member in a

1694 calendar year after the first distribution calendar year will be

1695 distributed beginning with the first payment interval ending in

1696 the calendar year immediately following the calendar year in

1697 which such amount accrues.

1698 (d) General distribution rules.—

1699 1. The amount of an annuity paid to a member's beneficiary

1700 may not exceed the maximum determined under the incidental death

1701 benefit requirement of Code Section 401(a)(9)(G), and, effective

1702 for any annuity commencing on or after January 1, 2008, the

1703 minimum distribution incidental benefit rule under Treasury

1704 Regulation Section 1.401(a)(9)-6, Q&A-2.

1705 2. The death and disability benefits provided by the plan

1706 are limited by the incidental benefit rule set forth in Code

1707 Section 401(a)(9)(G) and Treasury Regulation Section 1.401-

1708 1(b)(1)(I) or any successor regulation thereto. As a result, the

1709 total death or disability benefits payable may not exceed 25

1710 percent of the cost for all of the members' benefits received

1711 from the retirement system.

1712 (e) Definitions.—As used in this subsection, the term:

1713 1. "Designated beneficiary" means the individual who is

1714 designated as the beneficiary under the plan and is the

1715 designated beneficiary under Code Section 401(a)(9) and Treasury

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1716 Regulations Section 1.401(a)(9)-1, Q&A-4.

1717 2. "Distribution calendar year" means a calendar year for
 1718 which a minimum distribution is required. For distributions
 1719 beginning before the member's death, the first distribution
 1720 calendar year is the calendar year immediately preceding the
 1721 calendar year which contains the member's required beginning
 1722 date. For distributions beginning after the member's death, the
 1723 first distribution calendar year is the calendar year in which
 1724 distributions are required to begin pursuant to this plan
 1725 document.

1726 ~~(18) Required distributions. In accordance with IRC~~
 1727 ~~Section 401(a)(9)(C), any and all benefit payments shall begin~~
 1728 ~~by the later of:~~

1729 ~~(a) April 1 of the calendar year following the calendar~~
 1730 ~~year of the member's retirement date; or~~

1731 ~~(b) April 1 of the calendar year following the calendar~~
 1732 ~~year in which the employee attains age 70 1/2.~~

1733 (21) Rollovers from qualified plans.-

1734 (b) Transfer of accumulated leave.-

1735 1. Members eligible to receive accumulated sick leave,
 1736 accumulated vacation leave, or any other accumulated leave
 1737 payable upon retirement, including entry into BackDROP, but
 1738 neither vested termination nor non-vested termination,
 1739 ~~separation~~ shall have the leave transferred to the Fund up to
 1740 the amount permitted by law. Any additional amounts shall be

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1741 | paid directly to the member. Members on whose behalf leave has
 1742 | been transferred shall maintain the entire amount of the
 1743 | transferred leave balance in the DROP or Share Account.

1744 | 2. If a member on whose behalf the City makes a
 1745 | transferred leave balance to the Plan dies after retirement or
 1746 | other separation, then any person who would have received a
 1747 | death benefit had the member died in service immediately prior
 1748 | to the date of retirement or other separation shall be entitled
 1749 | to receive an amount equal to the transferred leave balance in a
 1750 | lump sum. In the case of a surviving spouse or former spouse, an
 1751 | election may be made to transfer the leave balance to an
 1752 | eligible retirement plan in lieu of the lump sum payment.
 1753 | Failure to make such an election by the surviving spouse or
 1754 | former spouse within 60 days after the member's death shall be
 1755 | deemed an election to receive the lump sum payment.

1756 | 3. The Board, by rule, shall prescribe the method for
 1757 | implementing the provisions of this paragraph.

1758 | 4. Amounts transferred under this section must remain
 1759 | invested in the Pension Fund for a period of not less than 1
 1760 | year.

1761 | (23) Prior firefighter service.—Unless otherwise
 1762 | prohibited by law, the years, or fractional parts of years, that
 1763 | a member previously served as a firefighter for any other
 1764 | municipal, county, state, or federal fire department or district
 1765 | or any time served in the military service of the Armed Forces

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1766 of the United States shall be added to the years of credited
 1767 service, provided that the member contributes to the fund the
 1768 sum that would have been contributed, based on the member's
 1769 salary and the employee contribution rate in effect at the time
 1770 that the credited service is requested, had the member been a
 1771 member of this system for the years, or fractional parts of
 1772 years, for which the credit is requested, plus the amount
 1773 actuarially determined, such that the crediting of service does
 1774 not result in any cost to the fund, plus payment of costs for
 1775 all professional services rendered to the board in connection
 1776 with the purchase of years of credited service. In all cases,
 1777 the member purchasing service shall make payment to the plan
 1778 which is at least equal to the then-current member contributions
 1779 for the amount of time being purchased.

1780 (a) Payment by the member of the required amount may be
 1781 made within 6 months after the request for credit and in one
 1782 lump sum payment, or the member may buy back this time over a
 1783 period equal to the length of time being purchased or 5 years,
 1784 whichever is greater, at an interest rate which is equal to the
 1785 Fund's actuarial assumption. A member may request to purchase
 1786 some or all years of eligible service.

1787 (b) The credit purchased under this section shall count
 1788 for all purposes, except vesting.

1789 (c) In no event, however, may credited service be
 1790 purchased pursuant to this section for prior service with any

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1791 other municipal, county, or state fire department or district,
 1792 if such prior service forms or will form the basis of a
 1793 retirement benefit or pension from another retirement system or
 1794 plan.

1795 (d) In the event that a member who is in the process of
 1796 purchasing service suffers a disability and is awarded a benefit
 1797 from the plan, the member shall not be required to complete the
 1798 buyback. However, contributions made prior to the date the
 1799 disability payment begins will be retained by the Fund.

1800 (e) If a member who has either completed the purchase of
 1801 service or is in the process of purchasing service terminates
 1802 before vesting, the member's contributions shall be refunded,
 1803 including the buyback contributions.

1804 (f) A request to purchase service may be made at any time
 1805 during the course of employment. A member may elect to purchase
 1806 permissive service more than one time; however, the maximum
 1807 years of service that may be purchased is 5 years.

1808 (g) There shall be no fiscal impact to the City, now or in
 1809 the future, as a result of the purchase of credit for prior
 1810 firefighter service or military service.

1811 Section 2. This act shall take effect upon becoming a law.