

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

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

24  
 25           Section 1.   Section 17 of chapter 24981, Laws of Florida,  
 26           1947, as amended by chapter 2010-246, Laws of Florida, is  
 27           amended to read:

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

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

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

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

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

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

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

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

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

55 7. "Final average salary" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

117 16. "Salary" means:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

290 (2) Professional and clerical services.—

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

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

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

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

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

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

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

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

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CODING: Words **stricken** are deletions; words **underlined** are additions.

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

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

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

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

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

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

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

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

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

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

430 2. Direct obligations of the State of Florida.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

518 (5) Service pension.—

519 (a) Normal retirement.—

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

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

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

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

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

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

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

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

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

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

602 (d) Supplemental pension distribution.—

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

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

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

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

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

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

662       3. Eligible persons are:

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



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

668

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

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

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

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

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

703 b. Maximum service credit shall be 26 years.

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

710 (e) Payment of benefits.—

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

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

721 (f) Normal form of retirement income.—

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

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

739 (g) Optional forms of retirement income.—

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

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

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

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

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

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

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

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

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

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

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

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

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

826 (h) Designation of beneficiary.—

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

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

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

- 850 a. The spouse or dependent child or children of the
- 851 member;
- 852 b. The dependent living parent or parents of the member;
- 853 or
- 854 c. The estate of the member.

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

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

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

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

867 2. Share account funding.—

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

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

882 3. Annual allocation of accounts.—

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

988 a. To the spouse;

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

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

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

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

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

1001 1. Eligibility to participate in the DROP.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1068 (II) Payments shall be made in either:

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

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

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

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

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

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

1092 3. Loans from the DROP.—

1093 a. Availability of loans.—

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

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

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

1099 b. Amount of loan.—

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

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

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

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

1108 d. Term of loan.—

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



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

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

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

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

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

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

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

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

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

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

1154 1. Eligibility to participate in the BackDROP.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1237 3. BackDROP earnings.—

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

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

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

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

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

1266           4. Loans from the BackDROP.—

1267           a. Availability of loans.—

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

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

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

1275           b. Amount of loan.—

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

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

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

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

1284 d. Term of loan.—

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

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

1287 e. Loan interest rate.—

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

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

1294 f. Defaults of loans.—

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

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

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

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

1305 g. Miscellaneous provisions.—

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

1399 |           2. The sum of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1506 (7) Beneficiary benefits.—

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1658 |       (15) Review procedures.—

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

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

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

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

1677 2. All witnesses shall be sworn.

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

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

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

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

1688 b. Evidence received or considered.

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

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

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

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

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

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

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

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

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

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

1726 (17) Internal Revenue Code limits.—

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

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

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

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

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

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

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

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

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

1774 (19) Miscellaneous requirements.—

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



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

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

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

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

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

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

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

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

1808 (20) Rollover distributions.—

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

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

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

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

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

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

1847 |         (21) Rollovers from qualified plans.—

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

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

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

1860 |                 3. The rollover is made in cash.

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

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

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

1882           (b) Transfer of accumulated leave.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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