An act relating to the City of West Palm Beach, Palm Beach County; amending and restating section 16 of chapter 24981, Laws of Florida, 1947, as amended; revising definitions relating to the West Palm Beach Police Pension Fund; revising professional and clerical services; revising membership; revising age and service requirements for retirement; revising retirement pension calculation; revising optional forms of retirement; revising chapter 185 share accounts; revising supplemental pension distributions; revising deferred retirement option plan (DROP); revising death benefits; revising investments; revising review procedures; revising internal revenue code limits; revising minimum distribution of benefits; revising rollovers from qualified plans; revising other police officer of military service; revising reemployment after retirement; providing an effective date.

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

Section 1. Section 16 of chapter 24981, Laws of Florida, 1947, as amended, is hereby amended and restated to read:

Sec. 16. West Palm Beach Police Pension Fund.

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

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

(a) "Accrued benefit" means the amount of a member's pension as of a specified date determined in accordance with the terms of the pension plan, whether or not the member is eligible to access it.

(b) "Actuarial equivalent value," "actuarial equivalence," or "single sum value" means the stated determination using an interest rate ~~of 8.00 percent per year~~ and **mortality table** ~~the RP-2000 Mortality Table for annuitants with future improvements in mortality~~ projected **with mortality improvement to the year of retirement** ~~to 2017 using Scale BB~~, blending ninety percent (90%) male rates and ten percent (10%) female rates for the member and ten percent (10%) male rates and ninety percent (90%) female rates for the beneficiary. ~~For females, the base mortality rates include a one hundred percent (100%) white collar adjustment. For males, the base mortality rates include a ninety percent (90%) blue collar adjustment and a ten percent (10%) white collar adjustment.~~

(c) "Beneficiary" means any person, **designated as such** ~~except a retirant~~, who is entitled to receive a benefit from the West Palm Beach Police Pension Fund or the West Palm Beach Police Pension and Relief Fund, as applicable **upon the death of a retirant**.

(d) "Board of Trustees " or "board" means the board of Trustees provided for in this act.

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

(f) "Department" means the Police Department in the City of West Palm Beach.

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

(h) "Final average salary" means the average of the monthly salary paid to a member in the 3 best years of employment. In no event shall any one year, beginning January 1, 2005, include more than 400 hours of overtime. Prior to January 1, 2005, individual years may include more than 400 hours of overtime. Effective prospectively from January 1, 2013, the overtime will be limited to 300 hours in any one year. As of **June 6, 2017**~~the effective date of this act~~, for purposes of determining final average salary, any lump sum payment made to a member for retroactive pay, such amounts shall not be considered as a lump sum but will be treated as if paid during the retroactive pay periods.

(i) "Fund" or "pension fund" means the West Palm Beach Police Pension Fund or the West Palm Beach Pension and Relief Fund, as applicable.

(j) "Member" or "participant" means any person who is included in the membership of the fund in accordance with subsection (6).

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

(l) "Police officer" means any person who is elected, appointed, or employed full time by the city, who is certified or required to be certified as a law enforcement officer in compliance with F.S. § 943.14, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in F.S. § 943.10(6), (8).

(m) "Qualified health professional" means a person duly and regularly engaged in the practice of his or her profession who holds a professional degree from a university or college and has special professional training or skill regarding the physical or mental condition, disability, or lack thereof, upon which he or she is to present evidence to the board. <u>**The board of trustees will determine whether any individual provider meets this requirement in its sole discretion.**</u>

(n) "Qualified public depository" means any bank or savings association organized and existing under the laws of Florida and any bank or savings association organized under the laws of the United States that has its principal place of business, or a branch office, in Florida which is authorized under the laws of Florida or the United States to receive deposits in Florida; that meets all of the requirements of F.S. ch. 280; and that has been designated by the Treasurer of the State of Florida as a qualified public depository.

(o) "Retirant" means any member who retires with a pension from the fund.

(p) "Retirement" means a member's withdrawal from Police Department employment as a police officer with a pension payable from the fund.

(q) "Salary" ~~means the fixed monthly compensation paid to a member; compensation shall include those items as have been included as compensation in accordance with past practice.~~ ~~However, the term shall not be construed to include lump sum payments for accumulated leave.~~ On and after January 1, 2003, salary shall mean ~~payment for~~ total cash remuneration paid by the City to a police officer for services rendered, excluding lump sum payments for accumulated leave such as accrued vacation leave, accrued sick leave, and accrued personal leave.

<u>**1.**</u> Effective January 1, 2005, overtime hours earned and paid in excess of four hundred (400) hours in any twenty-six (26) consecutive pay periods shall be excluded from the definition of salary. <u>**Prior to January 1, 2005, all overtime hours earned and paid shall be included in the definition of salary and shall not be limited by any cap.**</u>

<u>**2.**</u> Effective prospectively from January 1, 2013, overtime hours earned and paid in excess of three hundred (300) hours in any twenty-six (26) consecutive pay periods shall be excluded from the definition of salary. Prior to January 1, 2005, all overtime hours earned and paid shall be included in the definition of salary and shall not be limited by any cap.

<u>**3.**</u> This definition of compensation shall not include off-duty employment performed for vendors other than the City of West Palm Beach per Article <u>**35**</u> ~~30, and Section 8~~ of the collective bargaining agreement between <u>**the City of West Palm Beach and**</u> the Florida State Lodge, Fraternal Order of Police, Inc., Certified Unit No 1985 and Certified Unit No 1986 <u>**and per Article 30, Section 4, of the collective bargaining agreement for Certified Unit No 2004**</u>~~, and the City of West Palm Beach~~.

<u>**4.**</u> Beginning with salary paid after December 31, 2008, and pursuant to s. 414(u)(7) of the Internal Revenue Code, "salary" includes amounts paid by the city as differential wages to members who are absent from employment while in qualified military service.

(r) "Service" or "service credit" means the total number of years, and fractional parts of years, of employment of any police officer, omitting intervening years, and fractional parts of years, when such police officer was not employed by the city. No member shall receive credit for years, or fractional parts of years, of service for which the member has withdrawn his or her contributions to the fund. It is further provided that a member may voluntarily leave his or her contributions in the fund for a period of five (5) years after leaving the employ of the Department, pending the possibility of being rehired by the Department, without losing credit for the time he or she has participated actively as a police officer. Should he or she not be re-employed as a police officer with the Department within five (5) years, his or her contributions shall be returned without interest. In determining the aggregate number of years of service of any member, years of service for prior police officer or military service, as well as intervening military service, may be added, provided the member meets the requirements of subsection (34).

(s) The masculine gender includes the feminine and words in the singular with respect to persons shall include the plural and vice versa.

(3) *Board of trustees of police pension fund.*

(a) *Board of trustees created.* There is hereby created a board of trustees, which shall be solely responsible for administering the West Palm Beach Police Pension Fund. The board shall be a legal entity, with the power to bring and defend lawsuits of every kind, nature, and description and shall be independent of the city to the extent required to accomplish the intent, requirements, and responsibilities provided for in this act. The board shall consist of five (5) trustees, as follows:

1. Two (2) legal residents of the city, who shall be appointed by the city. Each resident trustee shall serve as a trustee for a period of four (4) years, unless sooner replaced by the city, at whose pleasure he or she shall serve, and may succeed himself or herself as a trustee.

2. Two (2) police officers, who shall be elected by a majority of the police officers who are members of the fund. Elections shall be held under such

reasonable rules and regulations as the board shall from time to time adopt. Each member-trustee shall serve as trustee for a period of four (4) years, unless he or she sooner ceases to be a police officer in the employ of the Department, whereupon the members shall choose his or her successor in the same manner as the original appointment. Each member-trustee of the fund may succeed himself or herself as a trustee.

3. A fifth trustee, who shall be chosen by a majority of the other four (4) trustees. This fifth person's name shall be submitted to the city, which shall, as a ministerial duty, appoint such person to the board as a fifth trustee. The fifth person shall serve as trustee for a period of four (4) years, and may succeed himself or herself as a trustee.

(b) *Board vacancy; how filled.* In the event a trustee provided for in subparagraph (a)2. ceases to be a police officer in the employ of the department, he or she shall be considered to have resigned from the board. In the event a trustee provided for in subparagraph (a)2. shall resign, be removed, or become ineligible to serve as a trustee, the board shall, by resolution, declare the office of trustee vacated as of the date of adoption of said resolution. If such a vacancy occurs in the office of trustee within ninety (90) days of the next succeeding election for trustee, the vacancy shall be filled at the regular election for the unexpired portion of the term; otherwise, the vacancy shall be filled for the unexpired portion of the term, as provided in subparagraph (a)2. In the event a trustee provided for in subparagraph (a)1. or (a)3. shall resign, be removed, or become ineligible to serve as a trustee, the board shall, by resolution, declare the office of trustee vacated as of the date of adoption of said resolution. His or her successor for the unexpired portion of his or her term shall be chosen in the same manner as an original appointment.

(c) *Board meetings; quorum; procedures.* The board shall hold meetings regularly, at least one (1) in each quarter year, and shall designate the time and place thereof. At any meeting of the board, three (3) trustees shall constitute a quorum. Each trustee shall be entitled to one (1) vote on each question before the board and at least three (3) concurring votes shall be required for a decision by the board at any of its meetings. The board shall adopt its own rules of procedure and shall keep a record of its proceedings. All public records of the board shall be kept and maintained as required by law. All meetings of the board shall be open to the public and shall be held as required by law.

(d) *Board chair*. The board shall elect from among the trustees a chair.

(e) *Board secretary.* The board shall elect from among the trustees a secretary. The secretary shall keep a complete minute book of the actions, proceedings, and hearings of the board.

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

(g) *Powers of the Board of Trustees*. The duties and responsibilities of the board shall include, but are not limited to, the following:

1. To construe the provisions of the plan and determine all questions arising thereunder.
2. To determine all questions relating to eligibility and participation.
3. To determine or have determined and certified the amount of all retirement allowances or other benefits hereunder.
4. To receive and process all applications for participation and benefits and, where necessary, conduct hearings thereon.
5. To authorize all payments whatsoever from the fund, and to notify the disbursing agent, in writing, or approve benefit payments and other expenditures arising through operation of the plan and fund.
6. To make recommendations to the city commission and union regarding changes in the provisions of the plan.
7. To review reports of and have meetings with the custodian and investment agents or advisors; to require written reports from the custodian on fund assets and transactions on a monthly basis; to require written and oral

reports from the investment agents or advisors on at least an annual basis, such reports to reflect fund investment, performance, investment recommendations, and overall review of fund investment policies.

8. To maintain a minute book containing the minutes and records of the proceedings and meetings of the board.

9. To make uniform rules and regulations and to take action as may be necessary to carry out the provisions of the plan and all decisions of the board made in good faith shall be final, binding, and conclusive on all parties.

10. To take such other action as the board shall deem, in their sole and exclusive discretion, as being necessary for the efficient management of the plan.

(4) *Professional and clerical services.*

(a) *Pension administrator.* The pension administrator of the fund shall be designated by the board and shall carry out its orders and directions.

(b) *Custodian of funds.* All moneys and securities of the fund may be deposited with the cash management coordinator of the city, acting in a ministerial capacity only, who shall be bonded and shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the city. However, any funds and securities deposited with the cash management coordinator shall be kept in a separate fund by the cash management coordinator or clearly identified as funds and securities of the fund. In lieu thereof, the board shall deposit the funds and securities in a qualified public depository designated by the board.

1. The cash management coordinator or other designated qualified public depository shall receive all moneys due said fund from all sources whatsoever. All tax revenue received pursuant to the provisions of F.S. ch. 185 shall be deposited into the fund no more than five (5) days after receipt. Member contributions withheld by the city on behalf of a member shall be deposited in the fund immediately.

2. The board may issue drafts upon the fund pursuant to this act and rules and regulations prescribed by the board, provided that such drafts shall be issued in accordance with generally accepted accounting procedures, American Institute of Certified Public Accountants guidelines, and rules of the State of Florida Auditor General. All such drafts shall be consecutively numbered, shall be signed by the chair and secretary, and each draft shall, upon its face, state the purpose for which it is drawn. For this purpose, the chair and secretary shall be bonded. The cash management coordinator or other depository shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money shall be otherwise drawn from the fund. Payments from the fund shall be made only upon a specific or general motion or resolution previously adopted by the board authorizing such payment or payments.

(c) *Legal counsel.* The city attorney shall give advice to the board in all matters pertaining to its duties in the administration of the fund whenever requested, shall represent and defend the board as its attorney in all suits and actions at law or in equity that may be brought against it, and shall bring all suits and actions in its behalf that may be required or determined upon by said board. However, if the board so elects, it may employ independent legal counsel at the fund's expense for the purposes set forth in this act.

(d) *Actuary.* The board shall designate an enrolled actuary, who shall be its technical advisor and who shall perform such other actuarial services as are required.

(e) *Certified public accountant.* The board shall employ, at its expense, a certified public accountant to conduct an independent audit of the fund. The certified public account shall be independent of the board and the city. **<u>Additionally, the board may employ a bookkeeper to create and maintain the financial statements for the fund.</u>**

(f) *Additional professional, technical, or other services.* The board shall have the authority to employ such professional, technical, or other advisors as are required to carry out the provisions of this act.

(5) *Reports; experience tables; regular interest.*

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

(b) *Experience tables; regular interest; adoption of same.* The board shall, from time to time, adopt such mortality and other tables of experience, and a rate or rates of interest, as required to operate the fund on an actuarial basis.

(6) *Membership*. All police officers in the employ of the Department shall be included in the membership of the fund, and all persons who hereafter become police officers in the employ of the city shall thereupon become members of the fund.

<u>**(a)**</u> New members to the fund are required to undergo a physical examination for purposes of determining preexisting conditions. This physical examination shall be conducted in conjunction with the city's post offer, preemployment physical examination. The board's medical director shall review the results of this physical examination and provide notice to the board and the member of any abnormal findings of the examination. This physical examination will be used for the purposes of establishing a physical profile of the member for determining preexisting conditions and presumptive illnesses as provided for in subsections (14) and (15). After review, if further physical examination is required by the board, such examination shall be conducted at board expense.

<u>**(b)**</u> Except as otherwise provided in this act, should any member cease to be a police officer in the employ of the Department, he or she shall thereupon cease to be a member and his or her credited service at that time shall be forfeited. In the event such person is re-employed in the Department as a police officer, he or she shall again become a member. His or her forfeited service shall be restored to the member's credit, provided that he or she returns to the fund the amount he or she might have withdrawn, together with regular interest from the date of withdrawal to the date of repayment. Members must begin the process of returning the withdrawn contributions within one (1) year after date of rehire or the time will only be eligible for purchase within the provisions of subsection

(34). Should a member have withdrawn their contributions due to a termination from employment and the member is subsequently reinstated through the grievance and arbitration process, such member must also begin the process of returning the withdrawn contributions within one (1) year after the date of reinstatement or the time will only be eligible for purchase within the provisions of subsection (34); however, a member who is reinstated through the grievance and arbitration process may repay the withdrawn contributions without interest if the repayment process is started within one (1) year after the date of reinstatement.

(c) Upon the member's retirement or death, he or she shall thereupon cease to be a member.

(7) *Service credit.* Pursuant to appropriate rules and regulations, the board shall determine and credit the amount of service to which each member shall be credited, consistent with the provisions of the Act and F.S. ch. 185.

(8) *Age and service requirements for retirement.*

(a) *Normal retirement*. Upon written application filed with the board, any member may retire and receive the applicable pension provided for in paragraph (9)(a), provided that the member has attained age fifty (50) and has at least twenty (20) years of credited service, has attained age fifty-five (55) and has at least ten (10) years of credited service, or has at least twenty-five (25) years of continuous credited service, regardless of age. In the case of a retirement within twenty-five (25) years of service, Normal Retirement Age is whatever age a member has attained when retired at twenty-five (25) years of service.

(b) *Vested deferred retirement*. A member who leaves the employ of the department with ten (10) or more years of credited service and who is not eligible for any other retirement benefit **at the time of termination** under this act shall be entitled to the pension provided for in this subsection. Payments of this pension shall begin the first day of the calendar month following the month in which his or her application is filed with and accepted by the board on or after attainment of age fifty (50) years. **In order to avoid the early retirement reduction below,**

a terminated vested member must be at least age fifty (50) and with at least twenty (20) years of credited service or has attained age fifty-five (55) and with at least ten (10) years of credited service. If **not** ~~applicable~~, the amount of the pension shall be determined in accordance with the early retirement provisions below. ~~In the case of a retirement with twenty-five (25) years of service, Normal Retirement Age is whatever age a member has attained when retired at twenty-five (25) years of service~~.

(c) *Early retirement.* Any member may retire from the service department as of the first day of any calendar month which is prior to the member's normal retirement date but subsequent to the date as of which he or she has both attained the age of fifty (50) and completed ten (10) years of credited service. In the event of early retirement, the monthly amount of retirement income payable shall be computed as described in paragraph (9)(a), taking into account his or her credited service to his or her date of actual retirement and his or her final average salary as of such date. The amount of retirement income shall be actuarially reduced to take into account the member's younger age and earlier commencement of retirement income benefits. The early retirement reduction shall be three (3) percent for each year by which the member's age at retirement preceded the member's normal retirement age.

(9) *Retirement pension calculation.*

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

1. a. **Effective for retirements on and after October 1, 2026, notwithstanding any other benefit in this section, the benefit accrual rate is 3.2% for all years of service up to a total of 26 years, and then a benefit of 1 percent of the final average salary multiplied by the number of years, and fraction of a year, of credited service in excess of 26 years. This benefit is not available to members who terminated or retired, including entry into DROP prior to October 1, 2026. In all cases, members who were active on September 30, 2026 will receive**

at least the benefit accrued as of that day and in no event shall the benefit be less than 2.75 percent per year of credited service. .

b. For all years of service earned after October 1, 2017, the benefit **accrual rate** is ~~calculated using~~ 3 percent of final average salary per year and fractional parts of the years of service up to a total of 26 years, plus 1 percent of the final average salary multiplied by the number of years, and fraction of a year, of credited service in excess of 26 years. For all years of service earned after October 1, 2011, and before October 1, 2017, the benefit is calculated using 2.68 percent of final average salary per year and fractional parts of the years of service and is included in the 26-year limitation years. This change in the multiplier was due to the change in assumptions in a prior version of this special act. This reduction is required by this paragraph. For years of service earned before October 1, 2011, the benefit will be calculated under the provisions of the applicable subparagraphs 2.-4. For purposes of determining the 26-year limitation, the member's total number of years of credited service are used, regardless of whether the multiplier is 3 percent or 2.68 percent. In no event shall the benefit be less than 2.75 percent per year of credited service.

c.~~b.~~ Beginning **May 6, 2022** ~~upon the effective date of this act~~, the benefit accrual rate of 2.68 percent as described in sub-paragraph 1.a. will be retroactively restored to 3 percent for all years of a member's service between October 1, 2011, and October 1, 2017, provided that the member retires or enters DROP after **May 5, 2022** ~~the effective date of this act~~. This benefit is not available to members who retired, including entry into DROP, prior to **May 6, 2022** ~~the effective date of this act~~.

2. A member who has more than or equal to 12 years and 6 months of service at October 1, 1999, and who was actively employed by the Department on or after October 1, 1999, shall receive a benefit equal to 3 percent of final average salary multiplied by the number of years, and fraction of a year, of credited service earned from April 1, 1987, to September 30, 2011, plus 2.5

percent of final average salary multiplied by the number of years, and fraction of a year, of credited service earned prior to April 1, 1987, up to a total of 26 years, plus 1 percent of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of 26 years. In no event shall the benefit be less than 2.75 percent per year of credited service. For all years of service after October 1, 2011, the benefit will be calculated in accordance with subparagraph 1.

3. A member who has less than 12 years and 6 months of service on October 1, 1999, and who was actively employed by the Department on or after October 1, 1999, shall receive a benefit equal to 3 percent of final average salary multiplied by the number of years, and fraction of a year, of credited service up to September 30, 2011, plus 1 percent of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of 26 years. In no event shall the benefit be less than 2.75 percent per year of credited service. For all years of service after October 1, 2011, the benefit will be calculated in accordance with subparagraph 1.

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

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

    b. The sum of the following:

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

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

To the extent that the benefit accrual factor is less than 3 percent for active members with less than 12 years and 6 months of service on October 1, 1999, the supplemental pension distribution calculation under subparagraph (12)(a)2. shall be adjusted for employees who retire or enter the DROP after October 1, 1999. The adjustment shall be to decrease the minimum return of 8.25 percent needed to afford the supplemental pension distribution, where the amount of the reduction is zero if an employee has been credited with 12 years and 6 months of service or more with the 3-percent benefit accrual factor or 1.25 percent if an employee has been credited with no more than a 2.5-percent benefit accrual factor. If an employee has been credited with less than 12 years and 6 months of service at the 3-percent benefit accrual factor, then the accumulated amount over 2.5 percent for each year of service divided by one-half percent divided by 12.5 subtracted from 1 multiplied by 1.25 percent is the reduction from 8.25 percent. An example of the calculation of the minimum return for the supplemental pension distribution as herein described is set forth in the collective bargaining agreement between the City of West Palm Beach and the Florida State Lodge, Fraternal Order of Police, Inc., Certified Unit No 1985 and Certified Unit No 1986, October 1, 2021, to September 30, 2024.

Effective October 1, 2011, the assumed investment rate of return was lowered from 8.25 percent to 8 percent, which resulted in a reduction in the benefit multiplier to 2.68 percent for all prospective years of service, up to 26 years of service in total, and 1 percent for each year of service after 26. Additionally, for any supplemental pension distributions subsequent to October 1, 2011, the revised factors in this paragraph will be applied.

(b) *Payment of benefits.*

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

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

(c) *Normal form of retirement income; ten-year certain benefit*.

1. *Married member*. The normal form of retirement benefit for a married member or for a member with dependent children or parents shall be a pension and death benefits. The pension benefit shall provide monthly payments for the life of the member. Thereafter, death benefits shall be paid to the designated survivor as provided in subsection (17).

2. *Unmarried member*. The normal form of retirement benefit for an unmarried member without dependent children or parents shall be a ten-year certain benefit. This benefit shall pay monthly benefits for the member's lifetime. In the event the member dies after his or her retirement but before receiving retirement benefits for a period of ten (10) years, the same monthly benefit shall be paid to the beneficiary (or beneficiaries) as designated by the member for the balance of such ten-year period or, if no beneficiary is designated, to heirs-at-law, or estate of the member, as provided in F.S. § 185.162.

(d) *Optional forms of retirement income.*

1. a. In the event of normal, early, or disability retirement, in lieu of the normal form of retirement income payable as specified in paragraph (c), and in lieu of the death benefits as specified in subsection (17), a member, upon written request to the board and subject to the approval of the board, may elect to receive a retirement income of equivalent actuarial value payable in accordance with one of the following options:

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

(II) *Joint and survivor option.* A retirement income of a modified monthly amount, payable to the member during the ~~joint~~ lifetime of the member and a dependent joint pensioner designated by the member, and following the death of either of them the member, one hundred (100) percent, seventy-five (75) percent, sixty-six and two-thirds (66⅔) percent, or fifty (50) percent of such monthly amounts, payable to the survivor for the lifetime of the survivor.

(III) Ten-year certain option. A retirement income of the normal form of benefit but in lieu of the survivor benefits as provided for in subsection (17), the member may elect to designate a beneficiary to receive the remainder of one hundred twenty (120) payments, in the event that the member dies before receiving one hundred twenty (120) payments. In the event that the member/retiree receives one hundred twenty (120) or more payments, no benefit is ever paid to a beneficiary.

b. The member, upon electing any option of this paragraph, shall designate the joint pensioner or beneficiary (or beneficiaries) to receive the benefit, if any, payable in the event of his or her death, and will have the power to change such designation from time to time; but any such change shall be deemed a new election and shall be subject to approval by the board. Such designation shall name a joint pensioner or one (1) or more primary beneficiaries where applicable. If a member has elected an option with a joint pensioner or beneficiary and his or her retirement income benefits have commenced, he or she may thereafter change the designated joint pensioner or beneficiary only twice. Any retired member who desires to change his or her joint pensioner or beneficiary shall file with the board a notarized notice of such change. Upon receipt of a completed change of joint pensioner form or such other notice, the board shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit and there is no impact to the plan.

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

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

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

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

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

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

3. No member may make any change in his or her retirement option after the date of **<u>the earliest to occur of the first DROP deposit, or</u>** cashing or depositing the first retirement check.

(e) *Designation of beneficiary.*

1. Each member may, on a form provided for that purpose, signed and filed with the board, designate a beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of the member's death; and each designation may be revoked by such member by signing and filing with the board a new designation of beneficiary form. However, after the benefits have commenced, a retirant may change his or her designation of joint annuitant or beneficiary only twice. If the retirant desires to change his or her joint annuitant or beneficiary, he or she shall file with the board a notarized notice of such change either by registered letter or on a form as provided by the board. Upon receipt of a completed change of joint annuitant form or such other notice, the board shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit.

2. *Absence or death of beneficiary.* If a deceased member failed to name a beneficiary in the manner prescribed in subparagraph 1., or if the beneficiary (or beneficiaries) named by a deceased member predeceases the member,

death benefits, if any, which may be payable under this act on behalf of such deceased member may be paid, in the discretion of the board, to:

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

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

c. The estate of the member.

(10) *Cost of living adjustments.*

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

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

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

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

4. *Base month.* The more recent of the month of October 1976, the month and year of the retirement benefit effective date, or the month and year in which the retiree attains age sixty-four (64) years.

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

1. January 1, 1976;

2. The retirement benefit effective date; or

3. The first day of the month after attainment of age sixty-five (65) years to the January first of the year in which the adjustment is being made.

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

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

(11) *Chapter 185 share accounts.*

(a) [*Member account established.*] A separate individual member account shall be established and maintained in each member's name effective October 1, 1988.

(b) *Share account funding.*

1. *Chapter 185 money*. Each individual member account shall be credited with the moneys received from F.S. ch. 185 tax revenues in June 1988 and thereafter. Of the Chapter 185 moneys received in calendar years 2011 and 2012, the full amount will be used to reduce the employee contributions to eleven percent (11%) as provided for in subparagraphs (19)(1)1. This is for calendar years 2011, 2012 and 2014 only. Effective for the fiscal year ending September 30, 2013, and beginning again October 1, 2104, the employee contribution will be eleven percent (11%), and all of the Chapter 185 moneys received in calendar years 2013 and 2015 each calendar year thereafter will be allocated to the shared accounts.

2. *Forfeitures.* In addition, any forfeitures as provided in paragraph (e) shall be credited to the individual member accounts in accordance with the formula set forth in paragraph (c). <u>**In the event that a member is rehired or reinstated to employment as a police officer after forfeiture of the**</u>

<u>benefit for terminating service without vesting and the member is entitled to reinstatement of the share account, the share account balance will be reinstated from the next distribution of 185 money before the allocation provide for in Section (11)(b)1 of this act.</u>

(c) *Quarterly allocation of accounts*.

1. Moneys shall be credited to each individual member account in an amount directly proportionate to the number of pay periods for which the member was paid compared to the total number of pay periods for which all members were paid, counting the pay periods in the calendar year preceding the date for which F.S. ch. 185 tax revenues were received.

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

3. Effective October 1, 2002, vested Participants have the option to select between two (2) methods to credit investment earnings to their account. The method may be changed each year effective October 1; however, the method must be elected prior to October 1. The methods are:

   a. The investment earnings (or losses) credited to the individual member accounts shall be in the same percentage as are earned (or lost) by the total investment earnings (or losses) of the fund as a whole, unless the board dedicates a separate investment portfolio for F.S. ch. 185 share accounts, in which case the investment earnings (or losses) shall be measured by the investment earnings (or losses) of the separate investment portfolio.

   b. A fixed annual rate of 8.25 percent. Effective October 2, 2012, the rate is eight percent (8%) for members who are vested and are not normal retirement age as of October 1, 2012. In any fiscal year, if the amount paid in investment earnings under this paragraph created a deficiency as compared to the gross earnings of the pension fund as a whole (using the rate determined by the fund's investment monitor), then the rate will be reduced to four percent (4%) effective the following October 1 until the deficiency is satisfied. When the deficiency is satisfied, the rate will return to eight percent (8%), effective the following October 1. Beginning October 1, 2012, the cumulative amounts paid in earnings for the fixed rate will be maintained in the actuarial valuation.

4. Costs, fees, and expenses of administration shall be debited from the individual member accounts on a proportionate basis, taking the cost, fees, and expenses of administration of the fund as a whole, multiplied by a fraction, the numerator of which is the total assets in all individual member accounts and the denominator of which is the total assets of the fund as a whole. The proportionate share of the costs, fees, and expenses shall be debited to each individual member account on a pro rata basis in the same manner as F.S. ch. 185 tax revenues are credited to each individual member account (i.e., based on pay periods).

(d) *Eligibility for benefits.* Any member who terminates employment with the city, upon application filed with the board, shall be entitled to be paid one hundred (100) percent of the value of his or her individual member account, provided the member meets any of the following criteria:

1. The member is eligible to receive and is receiving a pension as provided in subsection (8); or

2. The member has five (5) or more years of credited service and is eligible to receive and is receiving either:

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

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

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

   a. A duty disability pension as provided in subsection (15); or

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

(e) *Forfeitures.* Any member who has less than ten (10) years of credited service and who is not eligible for payment of benefits after termination of employment with the city shall forfeit his or her individual member account. The amounts credited to said individual member account shall be redistributed to the remaining individual member accounts in the same manner as F.S. ch. 185 tax revenues are credited (i.e., based on pay periods).

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

1. Over three (3) years in annual installments; or
2. In monthly installments over the lifetime of the member or until the entire balance is exhausted. The monthly amount paid will be determined by the fund's actuary in accordance with selections made by the member on a form provided by the board of trustees.
3. **in periodic partial lump sum withdrawals until entire balance is exhausted.**

(g) *Death of member.* If a member dies and is eligible for benefits from the individual member account, the entire balance of the individual member account shall be converted to the name of the beneficiary designated in accordance with paragraph (9)(e). The entire balance shall be paid out in a lump sum to the beneficiary, at the discretion of the beneficiary. If the designated beneficiary is the surviving spouse, the account may remain with the Fund until the latest period specified under subsection (30). These individual accounts shall not be eligible for any further shares of the chapter 185 moneys but shall be credited with interest. If a member fails to designate a beneficiary, or if the beneficiary predeceases the member, the entire balance shall be converted, in the following order, to the name or names of:

1. The member's surviving children on a pro rata basis; or
2. If no children are alive, the member's spouse; or

3. If no spouse is alive, to the member's surviving parents on a pro rata basis; or

4. If none are alive, the estate of the member.

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

(12) *Supplemental pension distribution.*

(a) The board of trustees shall annually authorize a supplemental pension distribution, the amount of which shall be determined as of each September 30, as applicable.

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

2. For those employees who have more than twelve and one-half (12½) years of service on and after October 1, 1999, or who are part of the DROP on or after October 1, 1999, the amount of the distribution shall be equal to the actuarial present value of future pension payments to those pensioners multiplied by the positive difference, if any, between the rate of investment return (not to exceed nine percent (9%)) and seven percent (7%) plus one-half of any investment earnings over nine percent (9%).

3. For those employees who have less than twelve and one-half (12½) years of service as of October 1, 1999, the amount of the distribution shall be equal to the actuarial present value of future pension payments to those

pensioners multiplied by the positive difference, if any, between the rate of investment return (not to exceed nine percent (9%)) and eight and one-quarter percent (8.25%), plus one-half of any investment earnings over nine percent (9%). Effective October 1, 2011, the 8.25-percent rate has been changed per the formula contained in subsection (9) because the actuarial assumption rate was changed to eight percent (8%) and the members' multiplier was reduced prospectively to 2.68 percent.

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

1. The actuary for the pension fund shall determine the rate of investment return earned on the pension fund assets during the 12-month period ending each September 30. The rate determined shall be the rate reported in the most recent actuarial report submitted pursuant to F.S. ch. 112, pt. VII.

2. The actuary for the pension fund shall, as of September 30, determine the actuarial present value of future pension payments to current pensioners. The actuarial present values shall be calculated using an interest rate ~~of 7 percent a year compounded annually~~ and a mortality table ~~as approved by the board of trustees and~~ as used in the most recent actuarial report submitted pursuant to F.S. ch. 112, pt. VII.

3. The supplemental pension distribution amount shall not exceed accumulated net actuarial experience from all pension liabilities and assets. If the net actuarial experience is favorable, cumulatively, commencing with the experience for the year ended September 30, 1991, after offset for all prior supplemental distributions, the supplemental distribution may be made. If the net actuarial experience is unfavorable, cumulatively, commencing with the experience for the year ended September 30, 1991, after offset for all prior supplemental distributions, no supplemental distribution may be made, and the city must amortize the loss until it is offset by cumulative favorable experience.

If an actuarial report submitted as provided in this paragraph is not state accepted prior to distribution, and if a deficiency to the pension fund results, the deficiency shall be made up from the next available supplemental pension distribution, unless sooner made up by agreement between the board of trustees and the city. No such deficiency shall be permitted to continue for a period greater than 3 years from the date of payment of the supplemental pension distribution which resulted in the deficiency.

(c) If the actuary determines there may be a supplemental distribution, the board of trustees shall authorize a "supplemental pension distribution," unless the administrative expenses of distribution exceed the amount available for the distribution.

(d) Eligible persons are:

1. Pensioners.
2. Surviving spouses.
3. Surviving dependent children.
4. Pensioners' estates.

(e) The supplemental pension distribution shall be allocated among eligible persons, based upon years of service in the proportion that the eligible person's years of service bear to the aggregate amount of years of service of all eligible persons. Allocations for surviving spouses and surviving dependent children who are eligible to receive supplemental pension distributions shall be 66⅔ percent of the years of service earned by the pensioner. Maximum service credits shall be 25 years. Allocations for duty-disability pensioners shall be based upon 25 years of service. Allocations for duty-death beneficiaries (surviving spouse and surviving dependent children) shall be based upon 66⅔ percent of 25 years of service.

(f) The supplemental pension distribution shall be made as of April 1, 1992, and each April 1 thereafter. Each eligible person shall be paid his or her allocated portion from the preceding September 30. Eligible persons retired for less than one (1) year are entitled to a pro rata share of their supplemental pension distribution based on number of months retired. A pensioner's estate is entitled to a pro rata share of the deceased retirant's supplemental pension distribution based on the number of months that the deceased retirant received a pension during the year ending the September 30 prior to the retirant's death.

(13) *Deferred retirement option plan (DROP).*

(a) *Eligibility to participate in the DROP.*

1. Any member who is eligible to receive a normal retirement pension may participate in the DROP. Members shall elect to participate by applying to the board of trustees on a form provided for that purpose.

2. Election to participate shall be forfeited if not exercised within the first twenty-seven (27) years of combined credited service.

3. A member shall not participate in the DROP beyond the time of attaining thirty (30) years of service, and the total years of participation in the DROP shall not exceed five (5) years. For example:

   a. Members with twenty-five (25) years of credited service at time of entry shall participate for only five (5) years.

   b. Members with twenty-six (26) years of credited service at time of entry shall participate for only four (4) years.

   c. Members of twenty-seven (27) years of credited service at time of entry shall participate for only three (3) years.

4. Upon a member's election to participate in the DROP, he or she shall cease to be a member and shall no longer accrue any benefits under the pension fund except for the benefits provided under subsection (11), chapter 185 share accounts. For all fund purposes, the member becomes a retirant, except that a DROP participant shall continue to receive shares of the chapter moneys in accordance with subsection (11), chapter 185 share accounts. DROP members shall also be eligible to vote as members for

purpose of election of the member-trustee. The amount of credited service and final average salary shall freeze as of the date of entry into the DROP.

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

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

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

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

   b. A fixed rate of 8.25 percent for members who reached normal retirement age on or before October 1, 2012. Effective October 1, 2012, the fixed rate is 8 percent for members who retire or enter the DROP on or after October 1, 2012. In any fiscal year, if the amount paid in investment earnings under this paragraph creates a deficiency as compared to the gross earnings of the pension fund as a whole (using the rate determined by the Fund's investment monitor), then the rate will be reduced to 4 percent effective the next October 1 until the deficiency is satisfied. When the deficiency is satisfied, the rate will return to 8 percent, effective the next October 1. Beginning October 1, 2012, the cumulative amounts paid in earnings for the fixed rate will be maintained in the actuarial valuation.

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

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

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

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

    b. Payments shall be made in either:

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

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

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

        (IV) Periodic partial lump sums. – The account balance may be paid in periodic partial lump sum withdrawals.

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

d. If a member dies and is eligible for benefits from the DROP account, the entire balance of the DROP account shall be converted to the name of the beneficiary designated in accordance with subsection (9)(e). The entire balance shall be paid out in a lump sum to the beneficiary, at the discretion of the beneficiary. If the designated beneficiary is the surviving spouse, the account may remain with the Fund until the latest period specified under subsection (30). These DROP accounts shall not be eligible for any further DROP distributions but are eligible for earnings. If a member fails to designate a beneficiary, or if the beneficiary predeceases the member, the entire balance shall be converted, in the following order, to the name or names of:

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

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

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

(c) *Loans from the DROP.*

1. *Availability of loans.*

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

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

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

2. *Amount of loan.*

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

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

c. The minimum loan is $5,000.

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

4. *Term of loan.*

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

b. The loan shall be no longer than 5 years.

5. *Loan interest rate.*

a. The interest rate shall be fixed at time the loan is originated for the entire term of loan.

b. The interest rate shall be equal to the prime rate published by an established local bank on the last day of each calendar quarter preceding the date of loan application.

6. *Defaults on loans.*

a. Loans shall be in default if 2 consecutive months' repayments are missed or if a total of 4 months' repayments are missed.

b. Upon default, the entire balance becomes due and payable immediately.

c. If a loan in default is not repaid in full immediately, the loan may be canceled and the outstanding balance treated as a distribution, which may be taxable.

d. Upon default of a loan, a member shall not be eligible for additional loans.

7. *Miscellaneous provisions.*

a. All loans must be evidenced by a written loan agreement signed by the member and the board of trustees. The agreement shall contain a promissory note.

b. A member's spouse must consent in writing to the loan. The consent shall acknowledge the effect of the loan on the member's account balance.

c. Loans shall be considered a general asset of the fund.

d. Loans shall be subject to administrative fees to be set by the board of trustees.

(14) *Nonduty disability pension.*

(a) *Retirement*. Any member who entered the employ of the department as a police officer after September 30, 1961, and who has five (5) or more years of credited service, who becomes physically or mentally, totally and permanently disabled to perform the duties of a police officer, shall be retired with a pension provided for in this subsection upon his or her application, or upon the application of the Police Chief on his or her behalf, filed with the board, provided that after a medical examination of the member made by or under the direction of the medical committee, the medical committee reports to the board in writing whether:

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

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

The board may admit and consider any other evidence which will assist it in understanding the medical committee's report. The final decision as to whether a member meets the requirements for a nonduty disability pension rests with the board and shall be based on substantial competent evidence on the record as a whole.

(b) *Nonduty disability pension benefits; disability occurs after age and service eligibility.* A member whose retirement on account of disability, as provided in paragraph (a) of this subsection, occurs on or after the date he or she became eligible to retire under subsection (8) shall receive the applicable pension provided for in subsection (9).

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

1. If the member has less than ten (10) years of credited service, the disability pension shall not be less than twenty (20) percent of his or her final average salary as of his or her disability retirement date;

2. If the member has at least ten (10) years of credited service, the disability pension shall not be less than twenty-five (25) percent of his or her final average salary as of his or her disability retirement date; and

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

(15) *Duty disability pension.*

(a) *Retirement.* Any member who becomes physically or mentally, totally and permanently disabled to perform the duties of a police officer by reason of a personal injury or disease arising out of and in the course of the performance of his or her duties as a police officer in the employ of the city shall be retired with a pension provided for in this subsection, provided that, after a medical examination of the member made by or under the direction of the medical committee, the medical committee reports to the board in writing whether:

1. The member is wholly prevented from rendering useful and efficient service as a police officer; and
2. The member is likely to remain so disabled continuously and permanently. The board may admit and consider any other evidence which will assist it in understanding the medical committee's report. Any condition or impairment of health of a member caused by tuberculosis, hypertension, heart disease, hardening of the arteries, hepatitis, or meningococcal meningitis resulting in total or partial disability or death, shall be presumed to be accidental and suffered in line of duty unless the contrary be shown by competent evidence. Any condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the member, resulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty, provided that such member shall have successfully passed a physical examination upon entering such service, which physical examination, including electrocardiogram, failed to reveal any evidence of such condition. In order to be entitled to the presumption in the case of hepatitis, meningococcal meningitis, or tuberculosis, the member must meet the requirements of F.S. § 112.181. The final decision whether a member meets the requirements for duty disability pension rests with the board and shall be based on substantial competent evidence on the record as a whole.

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

(c) *Duty disability pension benefits; disability occurs before age and service eligibility*. A member whose retirement on account of disability, as provided in paragraph (a), occurs prior to the date he or she would become eligible to retire under subsection (8) shall receive a disability pension equal to the appropriate pension payable in subsection (9). The disability pension payable to age fifty-five (55) shall not be less than two-thirds (⅔) of his or her final average salary. Beginning October 1, 2011, any member, upon reaching fifty-five (55), at the member's option, may begin receiving a pension computed in accordance with the applicable provisions of subsection (9). In calculating the new pension figure, the member shall be given service credit for the period he or she was in receipt of the disability pension provided for in this paragraph. Any pensions payable under this subsection shall be subject to the provisions of subsection (18).

(16) *Conditions applicable to all disability retirants.*

(a) *Medical committee.* The medical committee provided for in subsections (14) and (15) shall consist of no less than two (2) qualified health professionals, one (1) of whom shall be designated by the board and one (1) by the member. If deemed necessary by the board, a third qualified health professional, selected by the two (2) committee members previously designated, may be named to the medical committee. The member shall be responsible for the expenses of qualified health professional he or she designates to serve on the medical committee. Expenses for any other medical examination required under this act shall be paid by the fund. The medical committee shall report to the board the existence and degree of permanent physical impairment of the member, if any, based upon the most recent edition of the American Medical Association's Guide to the Evaluation of Permanent Impairment, if applicable.

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

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

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

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

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

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

6. Injury or disease sustained by the member before employment with the city begins. This exclusion applies only in the event of an application for a duty disability benefit.

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

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

2. *Member with less than ten (10) years of service.* Payments shall be made until the member's death.

Any monthly disability retirement income payments due after the death of a disabled member shall be paid to the member's designated beneficiary (or beneficiaries) as provided in F.S. § 185.162, or paragraph (9)(e) or subsection (17), as applicable.

(d) *Normal form of disability retirement income.*

1. *Duty or nonduty disability with ten (10) years of service.*

a. *Married member.* The standard form of disability retirement benefit for a married member or for a member with dependent children or parents shall be a disability pension and death benefit. This form of benefit shall provide monthly payments for the life of the member as set forth in subsection (14) or subsection (15), as applicable, or the disability retiree may select optional forms of benefits in accordance with paragraph (9)(d). Thereafter, death benefits shall be paid as provided in subsection (17).

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

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

(e) *Reexaminations of disability retirants.* At least once each year during the first five (5) years following a member's retirement on account of disability, and at least once in each three (3) years period thereafter, the board shall require any disability retirant who has not attained age fifty (50) to undergo a medical examination by a physician designated by the board. If the retirant refuses to submit to the medical examination, his or her disability pension may be suspended by the board until his or her withdrawal of such refusal. If such refusal continues for one (1) year, all of his or her rights in and to a disability pension may be revoked by the board. If, upon medical examination of such retirant, the physician reports to the board that the retirant is physically able and capable of performing the duties of a police officer in the rank held by him or her at the time of his or her retirement, the retirant shall be returned to employment in the department at a salary not less than the salary of the rank previously held by him or her. The disability pension shall then terminate.

(f) *Credited service for disability retirant.* In the event a disability retirant is returned to employment in the department, as provided in paragraph (e), he or she shall again become a member of the fund and shall be restored the credited service at the time of the member's retirement. If he or she retired under a duty disability as provided in paragraph (15)(a), he or she shall be given service credit for the period he or she was in receipt of a disability pension. If the member retired under a nonduty disability as provided in paragraph (14)(a), then he or she shall not be given service credit for the period he or she was in receipt of a disability pension.

(17) *Death benefits.*

(a) *Nonduty death while employed by the department; five (5) years or more.* In the event a member who has five (5) or more years of credited service dies, and the board finds his or her death to have occurred as the result of causes arising outside the performance of his or her duties as a member, the following applicable pensions shall be paid:

1. A pension equal to two-thirds of the pension to which he or she would have been entitled under subsection (9) if he or she had retired the day preceding the date of his or her death, notwithstanding that he or she might not have satisfied a retirement age and service requirement stipulated in subsection

(8), provided that the "widow's pension" shall not be less than one-seventh of the member's final average salary. Upon the surviving spouse's death, the pension shall terminate. Any provision payable under this paragraph shall be subject to the provisions of subsection (18).

2. In the event the deceased member does not leave a surviving spouse, or if the surviving spouse dies and the member leaves an unmarried child or children under age eighteen (18) each such child shall receive a pension of any equal share of the pension to which the said deceased member's surviving spouse was entitled or would have been entitled if he or she left a surviving spouse. Upon any such child's adoption, marriage, death, or attainment of age eighteen (18), the child's pension shall terminate and it shall be appointed to the pensions payable to the said deceased member's remaining eligible children under age eighteen (18). In no case shall the pension payable to any such child exceed one-seventh (1/7) of the deceased member's final average salary, nor shall it be less than fifteen dollars ($15.00) per month. Any pension payable under this paragraph shall be subject to the provisions of subsection (18).

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

4. In the event the deceased member does not leave a surviving spouse, children, or parents to receive a pension, then the death benefit, if any, shall be paid to the estate of the deceased member. Any retirement income

payments due after death of a vested member may, in the discretion of the board, be paid to the member's designated beneficiary or beneficiaries.

(b) *Duty death.* In the event a member dies and the board finds his or her death to be the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of the duties as a police officer in the employ of the city, the **below** ~~following~~ applicable pensions shall be paid~~:~~**.** **The duty related presumptions in Section (15)(a) 2 apply to the determination of whether the death arises out of the performance of duty.**

1. Effective October 1, 2003, The surviving spouse shall receive a pension equal to two-thirds (⅔) of the member's highest twelve (12) consecutive months' salary or the current top step police officer pay, whichever is greater. Upon the surviving spouse's death, the pension shall terminate. Any pension payable under this paragraph shall be subject to the provisions of subsection (18).

2. If, in addition to a surviving spouse, the deceased member leaves an unmarried child or children under age eighteen (18), each child shall receive a pension of $150.00 per month. Upon any child's adoption, marriage, death, or attainment of age eighteen (18), the child's pension shall terminate. Any pension payable under this paragraph shall be subject to the provisions of subsection (18).

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

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

5. In the event the deceased member does not leave a surviving spouse, nor children under age eighteen (18) eligible to receive a pension provided for in subparagraph 1., subparagraph 2. or subparagraph 3., and the member leaves a parent or parents who the board finds are dependent upon the member for at least fifty (50) percent of his, her, or their financial support, then each parent shall receive a pension of an equal share of one-third (⅓) of the deceased member's final average salary. Upon any such parent's remarriage or death, his or her pension shall terminate. Any pension payable under this paragraph shall be subject to the provisions of subsection (18).

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

(c) *Death after retirement.* Upon the death of a retirant, the following applicable pensions shall be paid, subject to the provisions of subsection (18). This paragraph is not applicable if a retiree chose an optional form of benefit at the time of retirement or if the retiree was not entitled at the time of retirement under paragraph (9)(c).

1. The surviving spouse of the retirant shall receive a pension of two-thirds of the retirant's pension, provided that the retirant was receiving a pension under paragraph (9)(a). Upon the surviving spouse's death, the pension shall terminate. Effective for years of service earned after June 6, 2017, if the retiree leaves a surviving spouse that he or she was not married to on the date of retirement, then the survivor benefit may be actuarially reduced to take into account the age of the substituted survivor.

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

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

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

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

(18) *Worker's compensation offset.* The pension benefits payable under this act shall not be offset by any worker's compensation benefits payable as a result of disability or death of a member, except to the extent that the total of the pension benefit and worker's compensation benefit exceeds the member's average monthly wage.

(19) *Member's contributions; refunds.*

(a) *Member's contributions.*

1. The member shall contribute seven percent (7%) of his or her salary to the fund. Effective the first payroll period after January 1, 2005, the member shall contribute nine percent (9%) of his or her salary to the fund, which shall be deducted each pay period from the salary of each member in the Department. Effective the first full payroll period after January 1, 2006, the member shall contribute ten percent (10%) of his or her salary to the fund, which shall be deducted each pay period from the salary of each member on the Department. Effective the first full payroll period after January 1, 2007, the member shall contribute eleven percent (11%) of his or her salary to the fund, which shall be deducted each pay period from the salary of each member in the Department. All amounts of member contributions that are deducted shall be immediately paid over to the Pension fund. Any contribution amount over seven percent (7%) is to be used to purchase eligibility for participation in the postretirement health insurance benefits. Effective October 1, 2011, the employee contributions will be eighteen percent (18%) and effective October 1, 2013, the employee contribution will be twenty percent (20%). Of the Chapter 185 moneys received in calendar years 20112012, and 2014, the full amount will be used to reduce the employee contributions to eleven percent (11%). Effective for the fiscal year ending September 30, 2013, and beginning again October 1, 2104, and each fiscal year thereafter, the employee contributions will be 11 percent, and the Chapter 185 moneys received in calendar years 2013 and 2015 and each calendar year thereafter will be allocated to the share accounts. Should the Chapter 185 moneys received be insufficient to reduce the member's contributions to eleven percent (11%), then the city will make up the difference. No amount of the Chapter 185 money is to be considered employee contributions for purpose of a refund of contributions as provided for in paragraph (19)(b).
2. The city shall cause the contributions provided for in subparagraph 1. to be deducted from the compensation of each member on each payroll, for each

pay period, so long as he or she remains a member of the fund. The member's contributions provided for herein shall be made, notwithstanding that the minimum compensation provided by law for any member is thereby changed. Each member shall be deemed to consent and agree to the deductions made and provided for herein. Payment of compensation, less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by him or her during the period covered by such payment, except as to benefits provided by this act. When deducted, each of said contributions shall be paid into the fund and credited to the individual member from whose compensation said deduction was made.

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

(b) *Refund of member's contributions*.

1. Should any member cease to be employed by the city as a police officer and not be entitled to a pension payable from the fund, upon application to and approval by the board, he or she shall be paid the aggregate contributions standing to his or her credit in the fund, without interest, less any benefits paid to him or her. In accordance with subsection (2)(q), a member who has ceased to be employed by the city as a police officer may elect to voluntarily leave his or her contributions in the member's deposit account for a period of up to five (5) years, pending the possibility of being rehired by the Department. If the member is not reemployed at the

expiration of five (5) years following the date the member ceased to be employed by the city as a police officer, all contributions remaining in the member's deposit account will be refunded without interest. No amount of the Chapter 185 money is to be considered employee contributions for purposes of a refund of contributions as provided for in this paragraph.

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

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

(20) *Sources of revenue.*

(a) *Contributions credited to fund.* The contributions to be credited to the fund shall consist of, but shall not be limited to, the following sources of revenue:

1. *Taxes of insurance companies*. The moneys returned to the city as provided by F.S. ch. 185 shall be used to fund the share account benefit described in subsection (11). The city shall not opt out of participation in F.S. ch. 185, or any similar statutory enactment unless exigent circumstances exist, such as the bankruptcy of the city or changes or amendments to the statute regarding extra benefits. If any statutory changes are made by the Legislature, the city and the board shall renegotiate the impact of such changes, if necessary.

2. *City contribution.* The city shall contribute to the fund annually an amount which, together with the contributions from the members and the amount derived from the premium tax provided in F.S. ch. 185, and other income sources as authorized by law, shall be sufficient to meet the normal cost of

the fund and to fund the actuarial deficiency over a period of not more than forty (40) years, provided that the net increase, if any, in unfunded liability of the fund arising from significant amendments or other changes be amortized within thirty (30) plan years.

3. *Member contributions.* As provided in subsection (19).

4. *Gifts, etc.* All gifts, bequests, and devises when donated to the fund.

5. *Interest from deposits.* All accretions to the fund by way of interest on bank deposits or otherwise.

6. *Other sources.* All other sources of income now or hereafter authorized by law for the augmentation of the fund.

(b) *Actuarial valuations*. The fund shall be actuarially evaluated at least once in each three-year period.

(21) *Investments.*

(a) *Power and authority of Board to invest and reinvest moneys*. The board shall have the power and authority to invest and reinvest the moneys of the fund and to hold, purchase, sell, assign, transfer, and dispose of any securities and investments held in the fund, including the power and authority to employ counseling or investment management services. The aim of the investment policies shall be to preserve the integrity and security of fund principal, to maintain a balanced investment portfolio, to maintain and enhance the value of the fund principal, and to secure the maximum total return on investments that is consonant with safety of principal, provided that such investments and reinvestments shall be limited only by the investments permitted by the investment policy guidelines adopted by the board in accordance with Florida law. Notwithstanding the foregoing, investments in foreign investments are limited in accordance with F.S. § 185.06(1)(b)4.

1. The board members must discharge these duties with respect to the plan solely in the interest of the participants and beneficiaries and:

a. For the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the plan;

b. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

c. By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

2. Notwithstanding any other provision of this subsection and as provided in F.S. §**<u>§</u>** 215.473 **<u>and 215.4725</u>**, the board must identify and publicly report any direct or indirect holding it may have in any scrutinized company, as defined in F.S. §**<u>§</u>** 215.473 **<u>and 215.4725</u>**. ~~Beginning January 1, 2010~~**<u>In accordance with these laws</u>**, the board must proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have directly in any scrutinized company. ~~The divestiture of any such security must be complete by September 10, 2010.~~ The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole end exclusive benefit to the participants of the Pension fund and their beneficiaries if the board's actions are consistent with the duties imposed by F.S. § 215.473, ~~as provided for in F.S. § 185.06(7),~~ and the manner of the disposition, if any, is reasonable as to the means chosen. For purposes of determining which companies are scrutinized companies, the board ~~may~~ utilize**<u>s</u>** the list of scrutinized companies as developed by the State Board of Administration. No person may bring any civil, criminal, or administrative action against the Board of Trustees or any employee, officer, director, or

advisor of such Pension fund based upon the divestiture of any security pursuant to this subparagraph. ~~(2008 Legislature)~~

(b) *Professional Counsel*. The board shall be required to engage the services of professional investment counsel to assist and advise the trustees in the performance of their duties.

(c) *Restricted use of assets.* The assets of the police pension fund shall be used only for the payment of benefits and other disbursements authorized by this act and shall be used for no other purpose.

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

(e) *Administrative expenses.* The administrative expenses of the fund shall be paid by the fund.

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

(23) *Assignments prohibited; voluntary withholding*.

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

(b) Upon written request by the retiree, the board may authorize the plan administrator to withhold from the monthly retirement payment funds necessary to:

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

A retirement plan does not incur liability for participation in the permissive program if the board's actions are taken in good faith pursuant to F.S. § 185.05(6).

(24) *Subrogation rights; loss of pension rights.*

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

(b) No person shall be entitled to a pension under this act who is convicted of a specified offense as provided in F.S. § 112.3173.

(25) *Ordinances applicable.* All ordinances of the city applicable to F.S. ch. 185 are hereby made applicable to this act with equal force and effect. No proposed change or amendment to this act shall be adopted without the approval required by F.S. § 185.35(2).

(26) *Review procedures.*

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

(b) The Board of Trustees shall hold a hearing **within 90 calendar** ~~within forty-five (45)~~ days **from** ~~of~~ the receipt of the appeal**, allowing for discovery of records and witnesses**. Written notice of said hearing shall be sent by **electronic delivery or** certified mail to the applicant, at the address listed on his application **or to their designated representative, no less than 10 calendar** ~~ten (10)~~ days prior to the hearing.

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

1. All parties shall have an opportunity to respond, to present physical and testimonial evidence and argument on all issues involved, to conduct cross examination, to submit rebuttal evidence, and to be represented by counsel. Medical reports and depositions may be accepted in lieu of live testimony, at the board's discretion.
2. All witnesses shall be sworn.
3. The applicant and the board shall have an opportunity to question all witnesses.
4. **While the Florida Rules of Civil Procedure and the strict Florida Rules of Evidence do** ~~Formal rules of evidence and formal rules of civil procedure shall~~ not apply **to these proceedings, irrelevant and unduly repetitious evidence may be excluded**. **Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.** The proceedings shall comply with the essential requirements of due process and law.
5. The record in a case governed by this subsection shall consist only of:
   a. A ~~tape~~ recording **or transcript** of the hearing, to be ~~taped and~~ maintained as part of the official files of the Board of Trustees by the ~~pension's secretary~~ **plan's administrator**.
   b. Evidence **submitted for admission into the record** ~~received or considered~~.

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

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

(d) Within **<u>10 calendar days</u>** ~~five (5) days~~ after the hearing, the board shall take one (1) of the following actions:

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

2. **<u>Deny</u>**~~Dent~~ the benefits and approve the proposed order as a final order, after making any changes in the order that the board feels is necessary.

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

(f) **<u>Upon</u>** ~~Within twenty (20) calendar days after~~ rendering its order, the Board of Trustees shall send **<u>the order to the applicant or applicant's representative</u>** by **<u>electronic or</u>** certified mail ~~a copy of said order to the applicant~~.

(g) The applicant may seek review of the order of the board of trustees by filing a petition for writ of certiorari with the circuit court within thirty (30) days.

(27) *Lump sum payment of small retirement income*. Notwithstanding any provision of the fund to the contrary, if the monthly retirement income payable to any person entitled to benefits hereunder is less than thirty dollars ($30.00) or if the single sum value of the accrued retirement income is less than **<u>seven</u>** ~~one~~ thousand dollars ($**<u>7,000.00</u>** ~~1,000.00~~) as of the date of retirement or termination of service, whichever is applicable, the Board of Trustees, in the exercise of its discretion, may specify that the actuarial equivalent of such retirement income be paid in lump sum.

(28) *Pickup of member contributions*. Effective the first day of the first full payroll period of the first calendar quarter following receipt of a favorable determination letter from the Internal Revenue Service, the city shall pick up the member contribution required by this section. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The city shall pick up the member contributions from funds established and

available for salaries, which funds would otherwise have been designated as member contributions and paid to the fund. Member contributions picked up by the city pursuant to this subsection shall be treated for purposes of making a refund of members' contributions, and for all other purposes of this and other laws, in the same manner and to the same extent as member contributions made prior to the effective date of this section. The intent of this section is to comply with section 414(H)(2) of the Internal Revenue Code.

(29) *Internal Revenue Code limits.*

(a) In no event may a member's annual benefit exceed **$280,000 in 2025 which is** ~~one hundred sixty thousand dollars ($160,000.00) (~~adjusted for cost of living in accordance with Internal Revenue Code (IRC) Section 415(d)~~)~~.

(b) If a member has less than ten (10) years of service with the city, the applicable limitation in paragraph (a) of this subsection shall be reduced by multiplying such limitation by a fraction, not to exceed one (1). The numerator of such fraction shall be the number of years, or part thereof, of service with the city; the denominator shall be ten (10) years.

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

(d) If distribution of retirement benefits begins before age 62, the dollar limitation as described in paragraph (1) shall be reduced using an interest rate assumption equal to the greater of 5 percent or the interest rate used for actuarial equivalence; however, retirement benefits shall not be reduced below $75,000[.00] if payment of benefits begins at or after age 55 and not below the actuarial equivalent of $75,000[.00] if payment of benefits begins before age 55. For a member with 15 or more years of service with the city, the reductions described above shall not reduce such member's benefit below $50,000.[00]

(adjusted for cost of living in accordance with IRC section 415(d), but only for the year in which such adjustment is effective). If retirement benefits begin after age 65, the dollar limitation of paragraph (a) shall be increased actuarially by using an interest assumption equal to the lesser of 5 percent or the rate used for actuarial equivalence.

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

(f) *Service credit purchase limits.*

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

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

b. The requirements of Code § 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code § 415(c).

c. For purposes of applying subparagraph (j)(1)a., the system will not fail to meet the reduced limit under Code § 415(b)(2)(C) solely by reason of this subparagraph c., and for purposes of applying subparagraph (j)(1)b. the system will not fail to meet the percentage limitation under § 415(c)(1)(B) of the Code solely by reason of this subparagraph c.

(2) For purposes of this subsection the term *PERMISSIVE SERVICE CREDIT* means service credit:

a. Recognized by the system for purposes of calculating a member's benefit under the plan.

b. Which such member has not received under the plan, and

c. Which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may, if otherwise provided by the system, include service credit for periods for which there is no performance of service, and, notwithstanding clause (j)(2)b., may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.

(g) *Effect of direct rollover on 415(b) limit*. If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under Code Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under Code Section 417(e) shall be included in the annual benefit for purposes of the limit under Code Section 415(b).

(30) **Minimum distribution of benefits.**

(a) *General rules.*

(1) The plan will pay all benefits in accordance with good faith interpretation of the requirements of Code § 401(a)(9) and the regulations in effect under that section, as applicable to a governmental plan within the meaning of Code § 414(d).

(2) *Precedence.* The requirements of this section will take precedence over any inconsistent provisions of the plan.

(b) *Time and manner of distribution*.

(1) *Required beginning date*.

a. The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date. The member's required beginning date is April 1 of the calendar year following the later of (i) the calendar year in which the member attains the applicable age or (ii) the calendar year in which the member terminates employment with the City.

b. *Applicable age*.

1. For a member who attained age 70 ½ before December 31, 2019, the applicable age is 70 ½.

2. For a member who attained age 72 before January 1, 2023, the applicable age is 72.

3. For a member who attains age 72 after December 31, 2022, the applicable age is 73.

4. For a member who attains age 74 after December 31, 2032, the applicable age is 75.

(2) Death of member before distributions begin. If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed no later than as follows:

a. If the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by a date on or before December 31 of the calendar year in which the member would have attained the applicable age, as the surviving spouse elects. Effective for calendar years beginning after December 31, 2023, a surviving spouse who is the member's sole

designated beneficiary may elect to be treated as if the surviving spouse were the employee as provided under Code Section 401(a)(9)(B)(iv).

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

(3) *Death after distribution begins.* If the member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death.

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

(c) *Determination of amount to be distributed each year.*

(1) *General requirements.* If the member's interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:

a. The annuity distributions will be paid in periodic payments made at intervals not longer than one year.

b. The member's entire interest must be distributed pursuant to this Plan document and in any event over a period equal to or less than the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary. The life expectancy of the member, the member's spouse, or the member's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

(2) *Amount required to be distributed by required beginning date.* The amount that must be distributed on or before the member's required beginning date is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., monthly. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(3) *Additional accruals after first distribution calendar year.* Any additional benefits accruing to the member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(d) *General distribution rules.*

(1) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Code § 401 (a)(9)(G), and effective for any annuity

commencing on or after January 1, 2008, the minimum distribution incidental benefit rule under Treasury Regulation § 1.401(a)(9)-6, Q & A-2.

(2) The death and disability benefits provided by the plan are limited by the incidental benefit rule set forth in Code § 401 (a)(9)(G) and Treasury Regulation § 1.401-1(b)(1)(I) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed 25% of the cost for all of the members' benefits received from the retirement system.

(e) *Definitions.*

***Designated Beneficiary.* The individual who is designated as the beneficiary under the plan and is the designated beneficiary under § 401(a)(9) of the Code and § 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.**

***Distribution Calendar Year.* A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to this plan document.**

~~*Required distributions.*~~

~~(a) In accordance with IRC Section 401(a)(9), all benefits under this plan will be distributed, beginning not later than the required beginning date set forth below, over a period not extending beyond the life expectancy of the police officers or the life expectancy of the police officer and a beneficiary designated in accordance with subsection (9)(e).~~

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

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

~~2. April 1 of the calendar year following the calendar year in which the member attains age 70½.~~

~~(c) If an employee dies before his entire vested interest has been distributed to him or her, the remaining portion of such interest shall be distributed at least as rapidly as provided for under subsection (17).~~

(31) (a) *Rollovers from qualified plans*. ~~A~~ **<u>An active</u>** member may roll over all or a part of his or her interest in another qualified plan to the fund, provided all of the following requirements are met:

1. Some or all of the amount distributed from the other plan is rolled over to this plan no later than the 60th day after distribution was made from the plan or, if distributions are made in installments, no later than the 60th day after the last distribution was made.
2. The amount rolled over to this fund does not include any amount contributed by the member to the plan on a post-tax basis.
3. The rollover is made in cash.
4. The member certifies that the distribution is eligible for a rollover.
5. Any amount which the trustees accept as a rollover to this fund shall, along with any earnings allocated to them, be fully vested at all times.
6. Effective October 1, 2012, the assets that are rolled over may not be invested in the fixed rate option. The assets may only be invested in the option for the plan returns, and the rolled over assets shall be subject to paying the pro rata administrative and investment expense of the plan.

A rollover may also be made to this plan from an individual retirement account qualified under section 408 of the Internal Revenue Code when the individual retirement account was merely used as a conduit for funds from another qualified plan and the rollover is made in accordance with the rules provided in paragraphs (1)—(5). Amounts rolled over may be segregated from other fund assets. The trustees shall separately account for gains, losses, and administrative expenses of these rollovers as provided for in subsections (11) and (13). In addition, the fund may accept the direct transfer of a member's benefits from another qualified retirement plan or an Internal Revenue Code Section 457 plan. The fund shall account for direct transfers in the same manner as a rollover and shall obtain certification from the member that the amounts are eligible for a rollover or direct transfer to this fund.

(b) *Transfer of accumulated leave*.

1. Members who are eligible to receive a lump-sum payment for accumulated leave payable upon retirement including entry into DROP, but neither vested termination nor non-vested termination, and who have funds remaining after the contributions to the health savings account as required by the collective bargaining agreement shall have the remaining leave payment transferred to the fund up to the amount permitted by law. Any additional amounts shall be paid directly to the member. Members on whose behalf leave has been transferred shall maintain the entire amount of the transferred leave balance in the DROP or Share Account.

2. If a member on whose behalf the city makes a transferred leave balance to the plan dies after retirement or other separation, then any person who would have received a death benefit had the member died in service immediately prior to the date of retirement or other separation shall be entitled to receive an amount equal to the transferred leave balance in a lump sum. In the case of a surviving spouse or former spouse, an election may be made to transfer the leave balance to an eligible retirement plan in lieu of the lump sum payment. Failure to make such an election by the surviving spouse or former spouse within sixty (60) days after the member's death shall be deemed an election to receive the lump sum payment.

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

4. Amounts transferred under this section shall remain invested in the fund for a period of not less than one (1) year.

(32) *Rollover distributions.*

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

(b) Definitions.

1. *Eligible rollover distribution* is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible [includable] in gross income.

2. *Eligible retirement plan* is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

3. *Distributee* includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is entitled to payment for alimony and child support under a domestic relations order determined to

be qualified by this Fund are distributees with regard to the interest of the spouse or former spouse.

4. *Direct rollover* is a payment by the plan to the eligible retirement plan specified by the distributee.

(33) *Miscellaneous requirements.*

(a) No benefit of any kind shall be payable from the assets of the pension fund unless specifically provided for in this act; however, the board of trustees, with the approval of the city, may grant ad hoc benefits after a public hearing and acceptance by the state of an actuarial impact statement submitted pursuant to F.S. ch. 112, pt. VII.

(b) The city may not offset any part of its required annual contribution by the fund's assets except as determined in an actuarial valuation, the report for which is determined to be state accepted pursuant to F.S. ch. 112, pt. VII.

(c) All provisions of this act and operations of the pension fund shall be carried out in compliance with F.S. ch. 112, pt. VII.

(d) False or misleading statements made to obtain retirement benefits prohibited.

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

2. a. A person who violates subparagraph 1. commits a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or § 775.083.

b. In addition to any applicable criminal penalty, upon conviction for a violation described in subparagraph 1., a participant or beneficiary of this plan may, in the discretion of the board of trustees, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under this plan. For purposes of this sub-subparagraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

(34) *Other police officer or military service*.

(a) *Prior police officer or military service*. Unless otherwise prohibited by law, the years, or fractional parts of years, that a member served as a police officer for any other municipal, county, state, or federal law enforcement office or any time served in the military service of the Armed Forces of the United States shall be added to the years of credited service, provided that the member contributes to the fund the sum that would have been contributed, based on the member's salary and the employee contribution rate in effect at the time that the credited service is requested, had the member been a member of this system for the years, or fractional parts of years, for which the credit is requested, plus the amount actuarially determined, such that the crediting of service does not result in any cost to the fund, plus payment of costs for all professional services rendered to the board in connection with the purchase of years of credited service. **<u>In all cases, the member purchasing service shall make payment to the plan which is at least equal to the then current member contributions for amount of time being purchased.</u>**

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

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

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

4. In the event that a member who is in the process of purchasing service suffers a disability and is awarded a benefit from the plan, the member shall not be required to complete the buyback. However, contributions made prior to the date the disability payment begins will be retained by the fund.
5. If a member who has either completed the purchase of service or is in the process of purchasing service terminates before vesting, the member's contributions shall be refunded, including the buyback contributions.
6. A request to purchase service may be made at any time during the course of employment; however, the buyback is a one-time opportunity.
7. A member who previously served as a police officer with the city during a period of employment and for which accumulated contributions were withdrawn from the fund may recontribute such withdrawn contributions plus interest from the date of withdrawal to the date of repayment in accordance with subsection (6).
8. A member may purchase up to five (5) years of credited service total for prior police or military service.

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

1. The police officer is in the active employ of the municipality prior to such service and leaves a position, other than a temporary position, for the purpose of voluntary or involuntary service in the Armed Forces of the United States.
2. The police officer is entitled to reemployment under the provisions of the Federal Uniformed Services Employment and Reemployment Rights Act.
3. The police officer returns to his or her employment as a police officer of the municipality within one (1) year after the date of his or her release from such active service, except that, effective January 1, 2007, members who die or

become disabled while on active duty military service shall be entitled to the rights of this section even though such member was not reemployed by the city. A member who dies or becomes disabled while on active duty military service shall be treated as though he or she were reemployed the day before he or she became disabled or died, were credited with the service he or she would have been entitled to under this section, and then either died a nonduty death while employed or became disabled from a nonduty disability.

(35) *Reemployment after retirement*.

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

(b) *Reemployment after normal retirement outside Police Department*. Any retiree who is retired under normal retirement pursuant to this plan and who is reemployed by the city after that retirement shall, upon being reemployed, continue receipt of benefits, provided the retiree is not hired into the Police Department. Upon reemployment, the retiree is eligible to participate in the plan offered to new employees of that department, and the retiree shall be deemed a new employee subject to any vesting and contribution requirements of that plan. The benefit paid under this plan shall not be changed in any way.

(c) *Reemployment after normal retirement in Police Department*. Any retiree who is retired after normal retirement pursuant to this plan shall not be reemployed by the **City** ~~Police Department~~ as a police officer or in any position that supervises police officers. The pension of a retiree who is reemployed by the **City** ~~Police Department~~ as a police officer or in any position that supervises police officers shall stop until the member terminates employment. However, a retiree who is reemployed by the **City** ~~Police Department~~ neither as a police officer nor in any position that supervises police officers is eligible to participate in the plan offered to new employees of that employee classification, and the retiree shall be deemed a new employee subject to any vesting and contribution requirements of that plan. The benefit paid under this plan shall not be changed in any way.

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

(e) *DROP participants*. Members or retirees who were in the deferred retirement option plan shall have the options provided for in this section for reemployment after termination of employment as if the retiree were a retiree under normal retirement.

(36) *Termination of the plan*. Upon termination of the plan by the city for any reason, or because of a transfer, merger, or consolidation of governmental units, services, or functions as provided in F.S. ch. 121, or upon written notice to the board by the city that contributions under the plan are being permanently discontinued, the rights of all employees to benefits accrued to the date of such termination or discontinuance and the amounts credited to the employees' accounts are nonforfeitable. The fund shall be distributed in accordance with the following procedures:

(a) The board shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits after taking into account the expenses of such distribution. The board shall inform the city if additional assets are required, in which event the city shall continue to financially support the plan until all nonforfeitable benefits have been funded.

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

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

(d) If there is asset value remaining after the full distribution specified in paragraph (c), and after payment of any expenses incurred with such distribution, such excess shall be returned to the city, less the return to the state of the state's contributions, provided that if the excess is less than the total contributions made by the city and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the city and the state.

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