

ARTICLE I. POLICE OFFICER PENSION FUND*

***Editor's note:** This restatement of the Orlando Police Pension Plan was enacted as Laws of Fla. ch. 95-482.

Sec. 1. Restatement of Orlando Police Pension Fund.

- (1) The pension fund and retirement plan created for members of the City of Orlando Police Department by Laws of Fla. ch. 22414(1943), as amended, is hereby and herein restated for the purpose of obtaining a favorable letter of determination as to the qualified plan status pursuant to the applicable provisions of the Internal Revenue Code.
- (2) As to any member who shall have retired or obtained continuity of service or continuity of benefits under the provisions of Laws of Fla. ch. 22414(1943), as amended, said retirement or continuity of service or continuity of benefits is hereby confirmed and approved.
- (3) From and after the effective date of this act, the terms and provisions of this act shall govern and control the pension fund and retirement plan for members of the City of Orlando Police Department.
- (4) Each member of the department shall pay into the fund a maximum of 13 percent of his/her salary per month, such amount to be deducted from the member's salary and deposited by the City of Orlando to the credit of the Orlando Police Pension Fund; provided, however, that if the Board of Trustees of the Orlando Police Pension Fund should find that said 13 percent is unnecessary for the operation and performance of the terms and provisions of this act, the Board, by a majority vote of the members thereof, may reduce the 13 percent deduction to such lesser percentage as is reasonably necessary for the operation and performance of the terms and provisions of this act. For the purposes of this act, "salary" shall mean and include base pay, differential pay, longevity pay, incentive pay, and career development pay, but shall not include overtime pay, education advancement pay, firearms qualification pay, and any other form of compensation not specifically included above.
- (5) If, after imposition by the Board of Trustees of the maximum percentage of salary deductions established in subsection (4) combined with revenue received from the levy of the excise tax provided for in Florida Statutes ch. 185, and any other income received by the fund, the total fund is insufficient to meet the actuarial soundness requirements imposed by state law, the City shall pay annually into the pension fund that amount of

money necessary to comply with the aforesaid requirements of state law.

(Laws of Fla. ch. 22414(1943), § 1; Laws of Fla. ch. 72-632, § 1; Laws of Fla. ch. 75-462, § 1; Laws of Fla. ch. 84-492, § 1; Laws of Fla. ch. 88-517, § 12; Laws of Fla. ch. 95-482, § 1)

Sec. 2. Board of Trustees.

(1) A board of trustees of said fund is hereby created which board shall be known as the Orlando Police Pension Board of Trustees. The board shall consist of five members, two of whom, if otherwise required by law, shall be legal residents of the City of Orlando, who shall be appointed by, and serve at the pleasure of, the City Council; two of whom shall be full-time police officers as defined in Florida Statutes § 185.02, who shall be elected by a majority of the police officers who are members of the plan. The fifth member shall be chosen by a majority of the previous four members, and such person's name shall be submitted to the City Council which shall, as a ministerial duty, appoint such person to the board. Each trustee shall serve for a period of 2 years and may succeed himself in office. Trustees, having been appointed and elected in the manner herein provided and holding office as of July 1, 1989, shall continue in office until September 30, 1990; trustees appointed and elected to take office on October 1, 1990 shall serve for a period of 2 years as heretofore provided. A vacancy shall be filled in the same manner as hereinabove provided for the appointment or election of trustees. The board of trustees shall meet at least quarterly each year. The board of trustees shall be a legal entity with all powers and responsibilities conferred upon it by law including the power to bring and defend lawsuits of every kind, nature and description. The trustees shall, by majority vote, elect from their members a chairman, a vice chairman and a secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

(2) The board of trustees is hereby authorized to promulgate rules and procedures for the conduct of the election of trustees as provided above to include, but not be limited to, location and hours of polling places, form of ballot, poll watchers, counting of ballots, certification of results, and challenges or protests to the election process or results thereof.

(3) The board of trustees is hereby authorized to make and adopt such reasonable rules and regulations as may be necessary or convenient to carry out the duties of the board and activities of the retirement plan, including any rules and regulations necessary to preserve the status of the retirement plan as a qualified pension plan under the provisions of the Internal Revenue Code of the United States, as amended, or under successor or related provisions of law.

(Laws of Fla. ch. 22414(1943), § 4; Laws of Fla. ch. 61-2604, § 1; Laws of Fla. ch. 84-492, § 4; Laws of Fla. ch. 89-458, § 4; Laws of Fla. ch. 95-482, § 2; Ord. of 6-24-2002, § 1, Doc. #020624704)

Sec. 3. Powers of the Board.

(1) The board shall be the trustees of the retirement plan and shall have all the powers necessary to carry out and effectuate the purposes and provisions of the retirement plan including, in addition to any specific powers provided for in the plan, the power:

- (a) To administer the retirement plan, including the management of the retirement plan and making effective the provisions of the retirement plan.
- (b) To administer oaths.
- (c) To create and maintain records.
- (d) To issue subpoenas to compel the production of evidence and the attendance of witnesses in connection with any hearings or proceedings of the board, such subpoenas being enforceable, and the failure to comply therewith being punishable, as provided by the laws of the State of Florida.
- (e) To make and adopt such reasonable rules and regulations as may be necessary or convenient to carry out the duties of the board and activities of the retirement plan, including any rules and regulations necessary to preserve the status of the retirement plan as a qualified pension plan under the provisions of the Internal Revenue Code of the United States, as amended, or under successor or related provisions of law.
- (f) To designate committees and to designate committee participants, including individuals who may not be participants in the retirement plan.
- (g) To designate an executive director and deputy executive director for the retirement plan.

(2) The board shall have the power to promulgate rules, regulations, policies and procedures in connection with the application for hearing and determination of disability pensions, to include, but not be limited to, the form of the application and the form of medical questionnaires for completion by physicians.

(3) The board shall have the power to and shall order the drawing and issuance of warrants, drafts and checks for payment from the assets of said fund for the benefits and pensions provided for and specified to be paid under the terms and provisions of this retirement plan and for payment of expenses incident to the administration of the plan, and shall invest said fund, except for deposits in banks as hereinafter mentioned, in the name of "The Board of Trustees of the Orlando Police Pension Fund" in interest-bearing securities or obligations fully guaranteed by the government of the United States as to both principal and interest, or in such investments as are from time to time approved by the comptroller of the State of Florida for purchase by state franchised banks and banking facilities, or in such investments as may be permitted by general law.

(4) The board shall also be authorized to invest said fund in real estate or interests in real estate wherever situated or common stocks, preferred stocks, and other types of equity instruments issued by corporations organized and existing under the laws of the United States or of the several states, and any other form of investments which are not specifically prohibited by law. The board of trustees shall be empowered to enter into an agreement, in its discretion, with an insurance company, authorized to do business in the state of Florida, for the payment of the permanent disability benefits and survivor's benefits to be paid under the terms and conditions of this retirement plan.

(5) The board shall also be empowered to enter into an agreement, in its discretion, with a bank, trust company, savings and loan association, investment management company, or insurance company, authorized to do business in the state, for the investment, management and/or administration of pension funds and the payment of pensions as provided under the terms and conditions of this retirement plan.

(6) The board shall be and is hereby authorized to invest more than 5 percent of its assets in the common or capital stock of any one issuing company, to invest in such a manner that the aggregate investment in any one issuing company exceeds 5 percent of the outstanding capital stock of the company, and to invest more than 30 percent of the fund's aggregate assets at cost in equity instruments; provided, however, that in order to so invest, the board shall first receive concurrence and recommendation therefor from an independent consultant professionally qualified to evaluate the performance of professional money managers, which consultant shall be retained by the board to review on an annual basis such performance.

(Laws of Fla. ch. 22414(1943), § 5; Laws of Fla. ch. 65-2025, § 2; Laws of Fla. ch. 73-572, § 2; Laws of Fla. ch. 80-562, § 1; Laws of Fla. ch. 81-452, § 1; Laws of Fla. ch. 84-492, § § 5, 16; Laws of Fla. ch. 89-458, § 2; Laws of Fla. ch. 95-482, § 3)

Sec. 4. Participant defined: effective date of retirement established.

(1) For the purposes of this retirement plan, all sworn members of the Orlando Police Department who are employed and certified as law enforcement officers pursuant to Florida Statutes ch. 943 and employed on a permanent, full-time basis by the City in positions subject to withholding of federal income and FICA taxes regardless of duty assignment, are mandatory participants in this retirement plan, and are hereinafter referred to as "members" or "participants."

(2) Any retirement under this plan, whether for service or disability, shall be effective the first day of the month following the last day the member is in an active pay status prior to retiring (or effective date of retirement for a BACKDROP participant).

(Laws of Fla. ch. 22414(1943), § 2; Laws of Fla. ch. 73-572, § 1; Laws of Fla. ch. 95-482, § 4; Laws of Fla. 2003-339, § 1)

Sec. 5. Continuity of Service; Continuity of Benefits; Reinstatement.

(1) Any member of the Police Department of the City of Orlando who was otherwise entitled to participate in the retirement plan created by Laws of Fla. ch. 22414(1943), shall be permitted to establish continuity of service and continuity of benefits by making the required regular contributions into the fund while such member of the Police Department is absent from duty because of the acceptance of an appointment as Director of Public Safety for the City of Orlando, or while absent from duty under leave of absence because of illness, injury, or any other approved leave of absence.

(2) Any member of the Police Department of the City of Orlando who was otherwise entitled to participate in the retirement plan created by Laws of Fla. ch. 22414(1943), as amended, shall for pension purposes be permitted to establish continuity of service and continuity of benefits by combining or tacking prior pension fund participation in the event of transfer from the Fire Department to the Police Department; provided, however, that such member must have completed at least 10 years' participation in the police pension fund immediately prior to retirement in order to establish such continuity.

(3) Any member of the Police Department of the City of Orlando who was otherwise entitled to participate in the retirement plan created by Laws of Fla. ch. 22414(1943), as amended, shall for pension purposes be permitted to establish continuity of service and continuity of benefits by making the required regular contributions into the respective fund while such member is absent from duty because of service in the United States military forces; provided, however, that such member returns to duty with the department following completion of such military service, all in accordance with and as may be required by applicable federal or state law.

(4) In the event a member of the Orlando Police Department severs his employment with said department, but is subsequently rehired, said member shall be reinstated in the pension program and accorded all provided rights therein; and shall receive credit for those years or fractional parts of years of service for the prior service with said department, provided said member repays into the pension fund that sum of money which said member was refunded at the time he severed employment with said department in addition to simple interest on that sum of money due for the period of the absence. An appropriate simple interest rate shall be determined by the Orlando Police Pension Board based on the investment earnings of the pension fund. The member shall have at least 90 days after his or her re-employment to make repayment. A police officer may voluntarily leave his or her contributions in the pension fund for a period of 5 years after leaving the employ of the police department, pending the possibility of being rehired by the same department, without losing credit for the time he or she has participated actively as a police officer. If the police officer is not reemployed as a police officer, with the same department within 5 years, his or her contributions shall be returned without interest.

(Laws of Fla. ch. 88-517, § 24; Laws of Fla. ch. 88-541, § 1; Laws of Fla. ch. 95-482, § 5; Ord. of

6-24-2002, § 2, Doc. #020624704)

Sec. 6. Service Requirements for Voluntary Retirement; Benefits upon Death of Retired Member.1

1 This section, which previously provided for a 60 per cent benefit at 20 years of service was amended by Chapter 2003-339, Laws of the State of Florida (2003) to increase the benefit at 20 years to 70 percent. Chapter 2003-339 further provided that "[a]ny actuarially determined additional cost resulting from the benefits in sections 2 and 4 of this bill [Section 6 of the Plan was amended by section 2 of the bill] shall be borne by the members of the pension plan." Chapter 2003-339, Laws of the State of Florida (2003)(Section 5).

(1) For the purposes of this retirement plan, the following definitions shall apply:

(a) "Credited service" means personal service rendered the City of Orlando Police Department while a participant in this plan, together with qualifying military service, which shall be credited to each member's credited service account each plan year in accordance with rules established by the Board of Trustees. For purposes of benefit calculation, "year of service" shall include both full and fractional years of service, calculated on the appropriate fractional basis. In no event shall a member be credited with more than 1 year of service for all service performed during a plan year.

(b) "Average monthly salary" means one thirty-sixth of the total amount of salary paid a member for the member's last 3 years of credited service, or by one sixtieth of the total amount of salary paid a member for the member's five best years of the last ten years of service, whichever amount is greater. If the member does not have 3 years of credited service, average monthly salary is the aggregate amount of salary paid the member for the member's total period of credited service divided by the member's total period of credited service.

(2) Any member of the Police Department who is employed by the police department on July 1, 2003, or initially becomes so employed after July 1, 2003, may retire after 20 years of credited service therein and shall receive and be paid a monthly pension of an amount equal to 70 percent of his average monthly salary. Said average monthly salary shall be determined by computing the average monthly salary for said member's last 3 years of service or by computing the member's average monthly salary for the five best years of the last ten years of service, whichever amount is greater. Provided, further, that in addition to the aforesaid 70 percent pension, a member who retires with more than 20 years' active service in the department shall receive 2 percent of said average monthly salary computed as stated herein for each full year of said service in excess of

20 years service. Said 2 percent increment shall be limited to 5 years of additional service.

(3) Upon the death of such a retired member, the widow or widower, if any, shall be entitled for the remainder of his or her natural life, subject to the provisions of sections 14 and 18 of this retirement plan, to a monthly pension equal to 75 percent of the pension amount payable to the retired member.

(4) If the deceased retired member leaves a surviving child, in being who is the issue of such deceased retired member and his or her surviving widow or widower and who is under the age of 18 years, then and in that event 25 percent of the 75 percent widow or widower pension, provided for in subsection (3), shall be paid to the widow or widower for and on behalf of said issue until said issue become ineligible under the provisions of section 14 of this retirement plan. Upon such ineligibility, the full 75 percent shall be paid to the widow or widower for her or his own account as provided in subsection (2).

(5) If said deceased retired member leaves a surviving child in being who is under the age of 18 years and the issue of such deceased retired member and of a wife or husband of a marriage other than to the widow or widower, then and in that event 25 percent of the aforesaid 75 percent widow or widower pension shall be divided and paid, on a per capita basis, to:

(a) the legal guardian of said issue, for said issue, until said issue become ineligible under the provisions of section 14 of this retirement plan; and

(b) the widow or widower, for issue if any, said widow or widower and the deceased retired member may have had who survived said deceased retired member and who were in being and under the age of 18 years at the time of death. If the deceased retired member leaves no widow or widower surviving but does leave issue as aforesaid, the full 75 percent widow or widower pension shall be divided and paid on a per capita basis to the legal guardian of said issue, for said issue, until said issue become ineligible under the provisions of section 14 of this retirement plan.

(6) Payments for any issue which shall cease pursuant to the provisions of section 14 of this retirement plan shall not have the effect nor serve to increase the payments to any other issue. Such amounts shall be paid to the widow or widower for as long as she or he remains eligible therefor.

(7) Neither the Board of Trustees nor the City of Orlando or their authorized officials, employees or agents shall be liable or responsible in any way for identification or verification of the authenticity of widows or widowers, issue or guardians or changes in status thereof; moreover, without limiting the foregoing, to be entitled to be considered for said payments provided herein, proof of identification and authenticity of the widow or widower, issue and guardians, along with sufficient address and status information must be presented to the board in writing within 30 days of the death of said member and proof of changes therein presented to the board in writing within 30 days after the

change. Without limiting the foregoing sentence, any widow or widower claiming entitlement under this section to an increase in pension on account of change in status of issue shall present in writing to said board proof satisfactory to the board of said change within 30 days thereafter. If said board decides that proof of any of the aforesaid changes has been satisfactorily shown to it in writing, the change of pension shall be made by said board effective with the next monthly payment due after said showing; provided, however, no change in pension payment or amount thereof shall be retroactive.

(8) Notwithstanding anything in this chapter to the contrary, any active member of the police department who has completed 40 years of credited service shall receive in addition to the amount specified in subsection (1), an additional 2 percent per year of service for each year in excess of 40 years of service; provided, however, the total monthly benefit shall not exceed 100 percent of the average monthly salary used in calculating the member's pension benefit.

(Laws of Fla. ch. 22414(1943), § 12; Laws of Fla. ch. 61-2604, § 2; Laws of Fla. ch. 65-2025, § 6; Laws of Fla. ch. 72-632, § 2; Laws of Fla. ch. 75-462, § 5; Laws of Fla. ch. 88-517, § 12; Laws of Fla. ch. 95-482, § 6; Ord. of 6-24-2002, § 3, Doc. #020624704; Laws of Fla. 2003-339, § 2)

Sec. 7. Vesting of Benefits; Benefits upon Death of Vested Member.

(1) Any member of the Police Department, who has been in active service in the department for more than 10 years but less than 20 years and who is discharged or voluntarily separates from service in the department thereafter, may make an irrevocable election in writing to receive a monthly pension beginning at age 47, provided, however, that said election must be delivered in writing to the Board of Trustees within 30 days after separation or discharge. Said active service shall be measured backward starting from the date of separation or discharge. If said separated or discharged member is at the time of separation or discharge over the age of 47 and elects within 30 days in writing in the manner hereinabove provided to receive a pension, said pension shall begin at the date of separation or discharge. Said pension beginning at age 47 or older as herein provided shall require no future contributions by the person so qualifying. The amount thereof shall be determined by computing the average monthly salary for the member's last 3 years of service, and said member shall receive each month 2 percent of the average monthly salary for each year of service up to but not including 20 years. Upon reaching 20 years active service, said member shall be governed by the provisions of section 6 of this retirement plan.

(2) If the member has not attained age 47 and dies after separation or discharge but before timely electing the pension or after the election but before the beginning of the pension, the widow or widower and issue under the age of 18 shall have no further rights hereunder to a pension or otherwise and shall only be entitled to receive the salary deductions the deceased member would have been entitled to elect upon separation or discharge if said member has not previously elected same.

(3) If the member has attained the age of 47 at the time of separation or discharge and dies prior to making the timely election or, before dying attains said age during the election period and dies before making the election or dies after the election but before the beginning of the pension, the widow or widower and issue under the age of 18 years shall be entitled to receive a monthly pension based upon the member's years of service at time of separation or discharge in the manner and percentages set forth for a widow or widower and issue in section 6 of this retirement plan.

(Laws of Fla. ch. 88-517, § 12; Laws of Fla. ch. 95-482, § 7)

Sec. 8. Disability Pensions in General.

(1) For the purposes of both sections 9 and 10 of this retirement plan, pertaining to disability pensions, the term "permanently and totally disabled" shall be construed to mean and include the loss of one or more limbs, loss of sight in one or both eyes, loss of hearing in one or both ears, and any other condition which renders the member unfit to perform the required duties of the member's rank held at the time of impairment.

(2) No member of the police department shall be entitled to a disability pension, whether in line of duty or not in line of duty, because of or due to the aggravation of a specific injury, impairment or other medical condition pre-existing at the time of employment with the police department, provided that such pre-existing condition and its relationship to a later injury, impairment or other medical condition be established by competent substantial evidence. Nothing herein shall be construed to preclude a disability pension to a member who, after employment with the police department suffers an injury, impairment or other medical condition different from some other injury, impairment, or other medical condition existing at or prior to said employment.

(3) Notwithstanding any other provision of this retirement plan, a disability pension may be denied by the Board of Trustees if it is determined that:

- (a) the applicant is not totally disabled to do all of the functions which can be performed by members of his or her same rank;
- (b) the applicant is able to do some of the functions which can be performed by members of his or her same rank; and
- (c) the Chief of the Police Department is willing to permit the applicant to remain on the Orlando Police Department, performing limited duty with no reduction in pay or benefits.

(4) If in any month a disability retiree receives both workers' compensation payments and disability pension benefits, a dollar-for-dollar offset will be made to disability pension payments otherwise due for any workers' compensation payments received; provided, however, the offset will not operate to reduce the total of workers' compensation payments and pension plan payments below 100 percent of the pensionable salary

earned by the retiree on his or her last day of work for the Orlando Police Department; and provided further that no offset shall be made if the member is receiving benefits under Title 42 USCA Public Health and Welfare (Social Security) guidelines as disabled. For purposes of offset calculation when lump sum workers' compensation settlements are paid, the lump sum will be amortized over the period of allowable benefits, not to exceed 10 years.

(Laws of Fla. ch. 88-541, § 1; Laws of Fla. ch. 95-482, § 8; Ord. of 6-24-2002, § 4, Doc. #020624704)

Sec. 9. Disability Pensions; Line of Duty.

(1) Any active member of the police department who shall become permanently and totally disabled, if the disability is directly caused by and attributable to the performance of duty as a member of the department, shall be entitled to a monthly pension computed as though said member had completed a full 25 years of credited service pursuant to section 6 of this retirement plan.

(2) Upon the death of such member while on disability pension pursuant to this section, a widow or widower and issue in being under the age of 18 years shall be entitled to a monthly pension in the manner set forth in section 6(2), (3), (4), (5), and (6) of this retirement plan.

(Laws of Fla. ch. 22414(1943), § 9; Laws of Fla. ch. 75-462, § 3; Laws of Fla. ch. 82-345, § 2; Laws of Fla. ch. 95-482, § 9)

Sec. 10. Disability Pensions; Not in Line of Duty.

(1) Any active member of the police department who shall become permanently and totally disabled, if the disability was not directly caused by and attributable to the performance of duty as a member of the department and was not caused by the member's own imprudence, shall be entitled to a monthly pension as follows:

(a) A member with less than 10 full years of credited service at time of impairment shall be entitled to receive an amount equal to 3 percent of the member's average monthly salary for each full year of credited service.

(b) A member with 10 full years or more of credited service at time of impairment shall be entitled to 4 percent of the member's average monthly salary for each full year of credited service, provided, however, that said monthly pension shall not exceed 60 percent of the member's average monthly salary, subject to the provisions of paragraph (c).

(c) A member with more than 20 full years of credited service at the time of impairment may exceed the 60 percent maximum specified in paragraph (b) and

shall be entitled to a monthly pension equal to 60 percent plus 4 percent per year for each full year of credited service in excess of 20 years of credited service; provided, however, that in no event shall the pension exceed the maximum percentage provided for a member who retires after 25 years of credited service as provided in section 6 of this retirement plan.

(2) Upon the death of such a retired member, the widow or widower, if any, shall be entitled for the remainder of her or his natural life, subject to the provisions of section 14 of this retirement plan, to a monthly pension equal to 65 percent of the pension amount payable to the retired member.

(3) If the deceased retired member leaves a surviving child in being who is the issue of such deceased retired member and his or her surviving widow or widower and who is under the age of 18 years, then and in that event 25 percent of the 65 percent widow or widower pension, provided for in subsection (2), shall be paid to the widow or widower for and on behalf of said issue until said issue becomes ineligible under the provisions of section 14 of this retirement plan. Upon such ineligibility, the full 65 percent shall be paid to the widow or widower for her or his own account, as provided in subsection (2).

(4) If said deceased retired member leaves a surviving child in being who is under the age of 18 years and the issue of such deceased retired member and of a wife or husband of a marriage other than to the widow or widower, then and in that event 25 percent of the aforesaid 65 percent widow or widower pension shall be divided and paid, on a per capita basis, to:

(a) the legal guardian of said issue, for said issue, until said issue becomes ineligible under the provisions of section 14 of this retirement plan; and

(b) the widow or widower, for issue if any, said widow or widower and the deceased retired member may have had who survived said deceased retired member and who was in being and under the age of 18 years at the time of death. If the deceased retired member leaves no widow or widower surviving but does leave issue as aforesaid, the full 65 percent widow or widower pension shall be divided and paid on a per capital basis to the legal guardian of said issue, for said issue, until said issue become ineligible under the provisions of section 14 of this retirement plan.

(5) Payments for any issue which shall cease pursuant to the provisions of section 14 of this retirement plan shall not have the effect nor serve to increase the payments to any other issue. Such amounts shall be paid to the widow or widower for as long as she or he remains eligible therefor.

(6) Neither the Board of Trustees nor the City of Orlando or their authorized officials, employees or agents shall be liable or responsible in any way for identification or verification of the authenticity of widows or widowers, issues or guardians, or changes in status thereof; moreover, without limiting the foregoing, to be entitled to be considered for said payments provided herein, proof of identification and authenticity of the widow or

widower, issues and guardians, along with sufficient address and status information must be presented to the board in writing within 30 days of the death of said member and proof of changes therein presented to the board in writing within 30 days after the change. Without limiting the foregoing sentence, any widow or widower claiming entitlement under this section to an increase in pension on account of change in status of issue shall present in writing to said board proof satisfactory to the board of said change within 30 days thereafter. If said board decides that proof of any of the aforesaid changes has been satisfactorily shown to it in writing, the change of pension shall be made by said board effective with the next monthly payment due after said showing; provided, however, no change in pension payment or amount thereof shall be retroactive.

(Laws of Fla. ch. 22414(1943), § 7; Laws of Fla. ch. 72-632, § 5; Laws of Fla. ch. 73-572, § 3; Laws of Fla. ch. 75-462, § 2; Laws of Fla. ch. 82-345, § 1; Laws of Fla. ch. 89-458, § 7; Laws of Fla. ch. 95-482, § 10)

Sec. 11. Death Benefits in Line of Duty.

If any active member of the police department shall lose his or her life in the performance of duties as a member of said department, or as a direct result thereof, the widow or widower, if any, and issue in being under the age of 18 years, if any, shall be entitled to a monthly pension in the manner as set forth in section 6(2), (3), (4), (5), and (6) of this retirement plan and computed as though the member had completed a full 25 years of credited service.

(Laws of Fla. ch. 22414(1943), § 8; Laws of Fla. ch. 65-2025, § 3; Laws of Fla. ch. 72-632, § 6; Laws of Fla. ch. 95-482, § 11)

Sec. 12. Death Benefits; Not in Line of Duty.

(1) If any active member of the police department who has completed at least 10 or more years of credited service in the department dies from causes unconnected with and not as a direct result of the performance of duties as a member of said department, the widow or widower, if any, and surviving issue in being under the age of 18 years, if any, shall be entitled to a monthly pension in the manner as set forth in section 10(2), (3), (4), (5), and (6) of this retirement plan.

(2) If the active member, at the time of his death, shall have been eligible to retire under section 6 of this retirement plan and otherwise entitled to elect and then receive the pension benefits provided thereunder, and the pension benefits accorded a widow or widower and issue in being under the age of 18 years under section 6 of this retirement plan would be greater than the benefits accorded such widow or widower and issue under section 10 of this retirement plan, then and in that event the member shall be deemed to have retired pursuant to section 6 of this retirement plan and such widow or widower and issue shall be entitled to the higher benefits accorded under section 6 of this retirement plan.

(3) If an active member of the police department has completed less than 10 years of credited service at the time of death from causes unconnected with and not as a direct result of the performance of duties as a member of the department, a widow or widower shall be entitled to receive only a refund of the member's salary deductions.

(Laws of Fla. ch. 22414(1943), § 10; Laws of Fla. ch. 67-1835, § 1; Laws of Fla. ch. 72-632, § 8; Laws of Fla. ch. 75-462, § 4; Laws of Fla. ch. 95-482, § 12)

Sec. 13. Deceased Member Without Widow or Widower or Issue; With Dependent Parents; Without Dependent Parent or Designated Receiver.

(1) If a deceased member of the police department, active or retired, leaves no widow or widower surviving and leaves no surviving child in being who is the issue of such deceased member and under the age of 18 years, but does leave a mother or father surviving who is entirely dependent upon such member for support, such mother or father shall receive the same total pension to which a surviving spouse would have been entitled, unless and until such dependent mother or father becomes self-supporting, dies, or remarries.

(2) If a deceased member has not received any retirement moneys under the terms and provisions of this retirement plan and leaves no surviving widow or widower, child who is the issue of such deceased member and under the age of 18 years, or dependent mother or father, then one-half of the amount deducted from the member's salary up to the effective date of Laws of Fla. ch. 72-632, § 3, as amended, and all of said deductions made thereafter, shall be paid to that certain individual who has previously been designated in writing by the deceased member to receive such deductions. The written designation, signed and dated by the member, shall be filed with the secretary of the pension board and shall indicate only one individual. Said designation may be changed by the member at any time prior to death.

(3) If the deceased member leaves no surviving widow or widower, child who is the issue of such deceased member and under the age of 18 years, no dependent mother or father, and no individual designated to receive the member deductions, then and in that event the amount of the deductions from the member's salary as set forth in subsection (2) shall be paid to the deceased member's estate.

(Laws of Fla. ch. 22414(1943), § 13; Laws of Fla. ch. 74-555, § 1; Laws of Fla. ch. 95-482, § 13)

Sec. 14. Payment to Widow or Widower and Child.

(1) Any pension paid under the terms and conditions of this retirement plan to any widow or widower shall cease upon the remarriage of such widow or widower; provided, however, a pension payment to a widow or widower of a member killed in the line of duty

shall not cease upon remarriage. No pension shall be paid under the terms and provisions of this retirement plan to any widow or wife or widower or husband unless such survivor was the lawful wife or husband of the deceased member at the time said member was placed on pension. This shall not be construed to mean that the pension provided for surviving issue of a deceased member shall cease by virtue of the remarriage of the surviving spouse, but such pension shall continue until the occurrence of one or more of the events mentioned in subsection (2).

(2) Any benefits paid under the provisions of this retirement plan for any child shall cease when and if such child dies, becomes self-supporting, marries, or reaches the age of 18 years.

(Laws of Fla. ch. 22414(1943), § 14; Laws of Fla. ch. 95-482, § 14)

Sec. 15. Pension and Contributions Not Assignable or Subject to Garnishment, Execution, Levy, or Attachment; Exceptions.

(1) Except as provided in subsections (2) and (3), none of the moneys, pensions, accumulated contributions or other benefits mentioned in this retirement plan shall be assignable, either in law or in equity, or be subject to execution, levy, attachment, garnishment, or other legal process.

(2) The right of a member to a pension, to the return of accumulated member contributions, or to any other benefit under the provisions of this retirement plan shall be subject to award by a court of competent jurisdiction pertaining to alimony or child support, if so provided under applicable Florida law. If an award or order requires the retirement plan to withhold payment of a pension, accumulated member contributions, or other benefit from the person to whom it is due, or requires the retirement plan to make payment to a spouse, former spouse, or child, the withholding or payment provisions of the award shall be effective only against the amounts as they become payable to the individual being paid the pension or other benefit. These limitations shall not apply to accumulated member contributions of an individual who is neither a participant or a vested former participant.

(3) A member may assign, to the City or the Orlando Federal Credit Union, the right to a refund of accumulated member contributions in the event of termination of participation.

(Laws of Fla. ch. 22414(1943), § 15; Laws of Fla. ch. 95-482, § 15; Ord. of 6-24-2002, § 5, Doc. #020624704)

Sec. 16. Disability Pensioner; Enhanced Pension for Retraining.

(1) After a disability pension has been granted by the board of trustees, a disability pensioner may voluntarily elect to receive a sum equal to one and a half times the

amount he or she would otherwise receive for up to a maximum of 4 years to allow said pensioner to undertake retraining via vocational, technical, or college education and entry into another field of endeavor. Upon entry into another gainful occupation, the pensioner shall revert to the regular amount of disability pension which he or she shall be entitled to draw until such time as the pension and the earnings from the gainful occupation equal the amount the pensioner was drawing as salary immediately prior to disability retirement. When the earnings from the gainful occupation exceed the difference between the pension and the amount received as salary immediately prior to disability retirement, the amount of pension shall be reduced to an amount which together with the amount earned from the gainful occupation equals the amount received as salary immediately prior to disability retirement.

(2) If the disability pensioner takes advantage of this increased pension amount for retraining or rehabilitation and then fails or refuses to seek a gainful occupation for which he or she is now qualified as a result of the rehabilitation or retraining, any pension payable shall be withheld until such time as he or she enters a gainful occupation.

(3) If the disability pensioner does engage in a gainful occupation following such retraining or rehabilitation, he or she shall make a report to the board of trustees, on or before the 20th day of each month, of any and all earnings received, or entitled to be received, by reason of engaging in the gainful occupation during the preceding month. If the report is not filed, the pension payable to the pensioner shall be withheld until the report is filed. If the pensioner files a false report, the board of trustees shall conduct a hearing, upon notice to the pensioner, and may order the pension suspended or terminated.

(Laws of Fla. ch. 84-492, § 17; Laws of Fla. ch. 95-482, § 16)

Sec. 17. Election of Pension or Return of Contributions.

(1) If a member is eligible to vest or retire upon voluntary separation or discharge, said member shall make an irrevocable election, in writing and deliver same to the Board of Trustees within 30 days after such separation or discharge, between return of said member's own contributions (whether regular, special or as a result of the cost-of-living increase provision in section 18) to the retirement plan or receipt of a pension. If the member elects return of contributions, said member and all others claiming by, through, under or against said member shall have no further rights to a pension, except as otherwise specifically provided in this retirement plan. If for any reason the election is not timely made, it shall be conclusively presumed that the irrevocable election is made in favor of return of contributions.

(2) If the member dies during the election period without having made the election as called for in subsection (1), the amount of the contributions shall be paid as provided in section 13(2) or (3) of this plan.

(Laws of Fla. ch. 95-482, § 17)

Sec. 18. Cost-of-Living Increase.

(1) Any member of the Orlando Police Department who retires with 20 or more years of credited service, or who retires on a line-of-duty disability pension regardless of years of service, shall receive an annual cost-of-living increase of 2 percent per year beginning at age 55.

(2) The actuarially determined cost of this benefit shall be borne by all of the members of this retirement plan.

(3) Upon the death of a member who retired with 20 or more years of actual credited service, the cost-of-living benefit shall be payable in the same manner as provided in section 6(2), (3), (4), (5), and (6) of this retirement plan; otherwise, the entitlement to a cost-of-living increase ceases upon the death of the retired member.

(Laws of Fla. ch. 95-482, § 18)

Sec. 19. Reexamination and Recall of Disability Pensioners.

Any member of the police department who shall have retired on pension due to disability, who has less than 25 years of service in said department, shall be subject to the call of the Orlando Police Pension Board for reexamination, and, after due notice and hearing, if found able to perform active duty, the said board shall have the power, with the consent of the chief of the police department, to compel the return of said member to said department. Said member so returned shall enjoy the same rights held at the time of being placed upon pension, and in the event said member so ordered to return shall refuse to comply with said order within 30 days from the issuance thereof, said member shall forfeit the right to a pension.

(Laws of Fla. ch. 22414(1943), § 20; Laws of Fla. ch. 95-482, § 19)

Sec. 20. Reemployment After Retirement.

(1) Any person who is retired and entitled to receive retirement benefits from the pension fund for the police department of the City of Orlando may be reemployed by any private or public employer after retirement and receive compensation from the employer and such retirement benefits without limitation, except that a person who, within the 12 months immediately subsequent to the date of his retirement, is reemployed by either the police department or fire department of the City of Orlando may not receive such retirement benefits for the period beginning on the date of such reemployment and ending on the first anniversary of the date of his retirement. The 12-month limitation period imposed by this paragraph applies to reemployment in any capacity with the

police department or fire department of the City of Orlando, irrespective of the category of funds from which the person is compensated.

(2) A person to whom the limitation in subsection (1) applies and who is reemployed by either the police department or fire department of the City of Orlando within the 12 months immediately subsequent to the date of retirement must give timely notice of his or her status to the Orlando Police Pension Board. The retirement benefits shall be suspended for the balance of the 12-month limitation period; any retirement benefits received during the 12-month limitation period shall be repaid to the pension fund, and the retirement benefits shall remain suspended until such repayment has been made. Any retirement benefits suspended beyond the 12-month limitation period shall be applied toward the repayment of any retirement benefits received during the 12-month limitation period.

(3) A retiree who draws a pension from the pension fund for either the police department or fire department of the City of Orlando, regardless of the date of reemployment, is not entitled to earn and draw another pension from either pension fund. If the police department or fire department of the City of Orlando employs a person who is entitled during such reemployment to receive retirement benefits from the pension fund for either the police department or fire department of the City of Orlando, the employer must pay into its pension fund an amount equal to the unfunded actuarial accrued liability portion, if any, of any contribution that would have been paid into the fund with respect to such employee were he or she a regular employee entitled to earn a pension.

(4) Notwithstanding the provisions of subsections (1) and (2), a person who is retired under the provisions of this plan and who is reemployed as a sworn member of the City of Orlando Police Department shall be reinstated as a participant in the pension plan and upon reinstatement shall be accorded all provided rights therein, provided that the retiree will not receive or be entitled to any pension benefit payment during the period of reemployment. Upon subsequent termination of employment said member will only be entitled to receive a recalculated pension payment based on total credited service and average monthly salary based on months of actual service, whether or not continuous, computed as provided in the plan.

(5) In the event that the provisions of subsections (1) through (3) of section 20 are found by the Internal Revenue Service to preclude this retirement plan from being a qualified pension plan under the Internal Revenue Code, or to preclude the trust from being an exempt organization under the Internal Revenue Code, then it is the intent of the Legislature that the provisions of subsections (1) through (3) not be enforced or effective and, therefore, not serve as a bar to qualification for exempt organization status.

(Laws of Fla. ch. 88-541, § 1; Laws of Fla. ch. 95-482, § 20; Laws of Fla. 2003-339, § 3)

Sec. 21. Qualified Pension Fund.

The City intends the pension fund to be a qualified plan under Section 401 of the Internal Revenue Code, as amended, and that the trust be an exempt organization under Section 501 of the Internal Revenue Code. The board of trustees shall administer the pension fund so as to fulfill this intent, including, but not limited to the following:

(1) In the event the pension fund should terminate, or if there were to be a complete discontinuance of contributions to the fund, the rights of all employees to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable.

(2) Distributions from the pension fund will comply with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, including the following specific requirements:

(a) Distribution of a member's benefits will begin not later than the later of April 1 of the calendar year following the calendar year in which the employee attains age 70 1/2 or April 1 of the calendar year following the calendar year in which the member retires.

(b) If distribution of a member's benefits commenced prior to the member's death, any remaining benefits will be distributed at least as rapidly as under the method of distribution used as of the date of the member's death.

(c) If distribution of a member's benefits had not commenced prior to the member's death, any portion of his or her benefits payable after the member's death shall:

1. If payable to the member's surviving spouse, begin no later than the end of the calendar year following the calendar year in which the member would have attained age 70 1/2; or

2. If payable to the member's designated beneficiary, begin no later than the end of the calendar year following the calendar year in which the member died and extend over a period not extending beyond the life expectancy of the beneficiary; or

3. Otherwise, be distributed within 5 years of the member's death.

(3) Notwithstanding any other provision in this retirement system, all benefits distributed from the pension fund shall comply with the limitations set forth in Section 415 of the Internal Revenue Code, and applicable regulations thereunder. For this purpose, compensation shall be determined in accordance with Code Section 415(c)(3). In the event it should become necessary to reduce or restrict a benefit in order to comply with section 415(e), the employer-provided portion of the benefit payable under this retirement system shall be reduced or restricted to the extent necessary.

(4) 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, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions shall apply with regard to this subsection.

(a) *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 distribution 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 Internal Revenue Code, and the portion of any distribution that is not includable in gross income.

(b) *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.

(c) *Distributee*: A 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 the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(d) *Direct rollover* is a payment by the plan to the eligible retirement plan specified by the distributee.

(Laws of Fla. ch. 95-482, § 21)

Sec. 22. Member Contributions; Tax Treatment.

(1) Upon implementation, the City shall, solely for the purpose of compliance with Section 414(h) of the Internal Revenue Code, pick up, for the purposes specified in that section, member contributions required by the act for all salary earned by the member after implementation. Member contributions picked up under the provisions of this section

shall be treated as City contributions for purposes of determining income tax obligations under the Internal Revenue Code; however, such picked-up member contributions shall be included in the determination of the member's gross annual salary for all other purposes under federal and state laws.

(2) Members' contributions picked up under this section shall continue to be designated member contributions for all purposes of the act and shall be considered as part of the member's salary for purposes of determining the amount of the member's contribution. The provisions of this section are mandatory, and the member shall have no option concerning the pick up or to receive the contributed amounts directly instead of having them paid by the City to the pension fund.

(3) Implementation occurs upon authorization by the Orlando Police Pension Board of Trustees following receipt of a favorable letter of determination as to the qualified plan status of the fund. In no event may implementation occur other than at the beginning of a pay period.

(Laws of Fla. ch. 95-482, § 22)

Sec. 23. Actuarial Equivalencies.

Actuarial equivalencies shall be calculated using such rates of interest and mortality tables as the Board of Trustees shall from time to time adopt based on recommendation of the plan actuary. In no case shall a rate of interest be less than 5 percent a year, compounded yearly. No change in interest rate or mortality table shall reduce the accrued benefit of any participant. In the event the composition of the Board of Trustees is changed in a manner that brings the board under the direct control of the City, actuarial equivalencies shall be calculated using the 1984 Group Annuity Mortality Table (Male) and an interest rate of 5 percent a year, compounded yearly.

(Laws of Fla. ch. 95-482, § 23)

Sec. 24. Termination of the Plan.

It is the intent of the Board of Trustees and the City of Orlando that this retirement plan be permanent and remain in effect for an indefinite period. However, in the event this retirement plan is discontinued or terminated, all participants shall immediately become fully vested in their benefits. The discontinuance or termination shall be carried out in all respects in conformance with applicable statutes, rules, or regulations of the Federal Government or of the State of Florida, or any duly constituted agency thereof having jurisdiction.

(Laws of Fla. ch. 95-482, § 24)

Sec. 25. Employment Rights.

This retirement plan shall not be construed as giving an employee any right to be retained in the service of the City without its consent nor shall this retirement plan interfere with the right of the City to discharge an employee, nor shall an employee be given any right, claim or interest in any benefits of this retirement plan except upon fulfillment of the conditions and requirements of this retirement plan.

(Laws of Fla. ch. 95-482, § 25)

Sec. 26. Applicable Laws.

This retirement plan shall be construed and enforced under the laws of the State of Florida and any applicable federal law, rule, or regulation, and all of the provisions hereof shall be administered in accordance therewith.

(Laws of Fla. ch. 95-482, § 26)

Sec. 27. Tax Qualification and Statutory Minimums.

(1) The legislative body of the City of Orlando is authorized to amend the pension plan to the limited extent necessary to maintain tax qualification of the plan under the Internal Revenue Code, but must obtain prior agreement of the members and their collective bargaining agent, if any, should such required amendments change any plan benefits.

(2) The legislative body of the City of Orlando is authorized to amend the pension plan to the limited extent necessary to comply with the minimum standards and benefits levels required by Chapter 185, Florida Statutes, and in order to allow the plan to receive funds from the Police and Firefighters' Premium Tax Trust Fund, but must obtain prior agreement of the members and their collective bargaining agent, if any, should such required amendments change any plan benefits.

(Ord. of 6-24-2002, § 6, Doc. #020624704)

Sec. 28. BACKDROP Retirement Option Plan.2

2 "Any actuarially determined cost resulting from the benefits in sections 2 and 4 of this bill [Section 28 of the Plan is section 4 of the bill] shall be borne by the members of the pension plan." Chapter 2003-339, Laws of the State of Florida (2003)(Section 5).

(1) *BACKDROP Retirement Option Plan.* The BACKDROP Retirement Option Plan, hereinafter referred to as the "BACKDROP," allows any eligible member who has elected to participate in the BACKDROP, hereinafter referred to as a "BACKDROP participant," to receive a lump-sum payment, or other payment, in addition to a monthly pension, upon termination of employment. No benefits shall be paid under this section unless the BACKDROP participant has terminated employment.

(2) *BACKDROP Eligibility.* Any member who is an employee of the police department on July 1, 2003, or initially becomes employed after July 1, 2003, may elect to participate in the BACKDROP following the date upon which the member completes 21 years of credited service as a full-time police officer with the City of Orlando and is eligible for a service retirement pension. A member may participate in the BACKDROP only once.

(3) *BACKDROP Participation.*

(a) A member may apply to participate in the BACKDROP by submitting an application to the Board of Trustees, which shall include the following:

1. A written election to participate in the BACKDROP. Once submitted to the Board of Trustees, this election will be irrevocable.
2. Selection of the BACKDROP participation and termination dates that satisfy the limitation stated in subsections (2) and (5). Such termination date shall be included in a binding letter of resignation.
3. A properly completed BACKDROP application for a service retirement pension.
4. A properly completed designation of named beneficiaries in the event the member dies while having funds remaining in a BACKDROP account.
5. Any other relevant information as may be required by the Board of Trustees.

(b) The effective date of BACKDROP participation for a participant who has elected to receive benefits under the pension plan shall be the first day of the month selected by the member to begin participation in the BACKDROP.

(c) A BACKDROP participant shall not accrue additional credited service under the pension plan after the effective date of BACKDROP participation.

(4) *Benefits Payable Under the BACKDROP.* Under a BACKDROP, an eligible member may retire with a retroactive date of retirement. A member may not select a retroactive retirement date earlier than the date upon which the member first became eligible for a service retirement pension, and in no event shall the retroactive date of retirement be more than 36 months prior to the date of BACKDROP election. The monthly service retirement pension shall be determined as of the retroactive retirement date. The member shall then be credited with an account balance in a BACKDROP account that is equal to the amount the member would have received during the BACKDROP period had

the member received a regular service retirement pension on the retroactive retirement date. Upon termination of employment, the BACKDROP participant shall receive or transfer the balance of this BACKDROP account, pursuant to subsection (9), and shall begin to receive the monthly service retirement pension adjusted to reflect the retroactive retirement date.

(5) *BACKDROP Participation Duration.*

(a) An eligible member may participate in the BACKDROP for a period not to exceed 36 months. Notwithstanding, BACKDROP participation may not commence or continue beyond the date when the member's combined years of credited service and time in the BACKDROP equal 360 months.

(b) Notwithstanding the provisions of paragraph (a), for 60 days after this act becomes law, a member with more than 324 months of credited service may elect the BACKDROP option and shall not be subject to combined years of credited service and BACKDROP participation limitation of 360 months. Said member is subject to the maximum BACKDROP participation period of 36 months. A member with more than 324 months of credited service as of the effective date of BACKDROP who does not elect to participate in the BACKDROP, as set forth herein, during this one-time window period shall forfeit the right to deviate from the conditions for participation in the BACKDROP set forth in paragraph (a).

(6) *BACKDROP Accounts.* Individual BACKDROP accounts shall be established to account for each BACKDROP participant's accrued BACKDROP benefits, but there shall be no requirement that funds be segregated for any BACKDROP participant. In the case of a member who selects the BACKDROP option, the amount of that member's pension contributions made during the BACKDROP period shall not be refunded or credited to the member.

(7) *BACKDROP Benefits Earnings.* Any BACKDROP participant's BACKDROP account shall accrue earnings at 8 percent simple interest compounded annually, unless the parties otherwise agree.

(8) *Cost-of-Living Increase.* A BACKDROP participant will not be eligible to participate in cost-of-living increases during the BACKDROP period. Cost-of-living increases will be made pursuant to section 18, after the BACKDROP participant's termination of employment.

(9) *Payment Options and Conditions.*

(a) Following the termination of employment, the BACKDROP participant, or if deceased such BACKDROP participant's beneficiaries, shall elect on forms provided by the Board of Trustees to receive payment of the balance of the BACKDROP account in accordance with one of the options listed below. For a BACKDROP participant or beneficiaries who fail to elect a method of payment within 60 days of termination of employment, the Board of Trustees shall pay the balance of the DROP account in one lump sum as provided in subparagraph 1.

1. The balance of the BACKDROP account, less any taxes remitted to the Internal Revenue Service, shall be paid to the BACKDROP participant or beneficiaries.
2. The balance of the BACKDROP account shall be paid directly to the custodian of an eligible retirement plan as defined in applicable provisions of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the widow or widower as a beneficiary, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in applicable provisions of the Internal Revenue Code.
3. The balance of the BACKDROP account shall be paid by a method that is in compliance with the Internal Revenue Code and as adopted by the Board of Trustees.

(b) All payments and benefits shall be made in accordance with applicable provisions of the Internal Revenue Code.

(10) *Death of a BACKDROP Participant.* Upon the death of a BACKDROP participant, the named BACKDROP beneficiaries shall be paid the balance of the BACKDROP account in accordance with subsection (9). Other pension benefits due to the participant's survivors shall be paid in accordance with applicable provision of this pension plan.

(11) *Cost of Benefits.* Any actuarially determined additional cost resulting from the benefits in sections 2 and 4 of this bill shall be borne by the members of the pension plan.

(Laws of Fla. 2003-339, §4)