

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

**Meeting Date:** **March 11, 2008**      ☐ **Consent Workshop** ☒ **Regular Public Hearing**

**Submitted by: FIRE RESCUE**

## I. EXECUTIVE BRIEF

**Motion and Title:**

**Staff recommends motion to approve:**

- A) a Settlement Agreement with the Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Inc. (Union) for Grievance #00-23 – Long Term Disability (LTD); and**
- B) a budget transfer of \$140,000 in the Fire Rescue Long-Term Disability Fund from the LTD reserves for future payments.**

**Summary:** The Collective Bargaining Agreement with the Union provides a LTD benefit for line of duty disability. In April 2000, the County Internal Auditor's office initiated an audit of the calculation of benefits under this program. Due to vague language in the agreement, a number of assumptions were used during the audit regarding the calculations of benefits. The assumptions relate to the impact of other benefit payments as offsets to the LTD benefit. These other benefits included Workers' Compensation (WC) and Florida Retirement System (FRS) payments, as well as annual Cost of Living Adjustment (COLA) increases in these payments. Using these assumptions, the audit determined that some LTD benefit recipients were either over/or under paid. Fire Rescue staff implemented the audit recommendations which included reducing LTD payments for some recipients, and seeking reimbursement from other recipients. In July 2000, the Union filed a grievance under the Collective Bargaining Agreement opposing reductions in LTD benefits and the assumptions used in the audit to recalculate the LTD benefits. While attempting to resolve the Union's grievance, the County failed to prevail in a Workers' Compensation law suit relating to COLA offsets in the calculation of LTD benefits. As a result of the court ruling, a settlement to the grievance was agreed to between the Union and Fire-Rescue, subject to approval of the Board. This settlement provides the following:

- A) Back-pay to 20 employees in the total amount of \$316,087.93.
- B) Identifies total owed the County for overpayments to 11 employees in the amount of \$307,759.25.
  - 1) Of these 11 employees, 6 currently receive benefits from the County and the settlement provides a repayment plan.
  - 2) The County will make efforts to collect overpayments to the remaining 5 personnel.
- C) Increases the calculated annual LTD benefit for the 41 initial recipients by \$75,712.44.

The above amounts are as of April 11, 2008.

Countywide (SB)

**Background and Justification:** Based on a Special Master ruling on May 18, 1991, Fire Rescue established a LTD benefit. Language for this benefit was initially included in the Collective Bargaining Agreement for the period October 1, 1990 through September 30, 1993. In April 2000, the County Internal Auditor's Office initiated an audit of the benefit calculation. This audit determined some employees were either over/under paid LTD benefits. Based on the audit recommendations, Fire Rescue staff took steps to reduce the LTD payments and seek reimbursement for over payments. In July 2000, the Union filed a grievance regarding the audit findings. This settlement will resolve this long standing grievance. The current language in the Collective Bargaining Agreement relating to long-term disability benefits was revised in the current agreement to clarify the calculation of benefits.

**Attachments:**

1. Settlement Agreement
2. Budget Transfer

**Recommended By:**

**Deputy Chief**

2-27-08  
Date

**Approved By:**

## Fire-Rescue Administrator

2-27-08  
Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

	Fiscal Years 2008	2009	2010	2011	2012
Capital Expenditures					
Operating Costs	<u>351,032</u>	<u>75,712</u>	<u>75,712</u>	<u>75,712</u>	<u>75,712</u>
External Revenues	<u>&lt; 307,759 &gt;</u>				
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	<u>43,273</u>	<u>75,712</u>	<u>75,712</u>	<u>75,712</u>	<u>75,712</u>
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes \_\_\_ No X

Budget Account No.: Fund \_\_\_ Dept \_\_\_ Unit \_\_\_ Object \_\_\_

### B. Recommended Sources of Funds/Summary of Fiscal Impact:

The back-pay and additional annual benefits will be funded from the Fire Rescue Long-Term Disability Fund.

C. Departmental Fiscal Review: \_\_\_\_\_

## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Dev. and Control Comments:

B. Legal Sufficiency:

C. Other Department Review:

\_\_\_\_\_  
Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

**Settlement Agreement for Grievance #00-23  
Long Term Disability**

The Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Inc. (hereinafter Local 2928) and Palm Beach County (hereinafter the County) agree that Grievance #00-23 regarding Long Term Disability is hereby fully resolved and settled under the following terms and conditions, which shall apply to the forty one (41) former employees who terminated employment under the Long Term Disability provisions of the Collective Bargaining Agreements in effect prior to ratification of the Side Agreement dated June 22, 2004 (hereinafter the former LTD program):

1. The County will not apply Workers' Compensation COLA offsets prospectively.
2. The County will pay unpaid Workers' Compensation COLA offsets for all retroactive periods.
3. The County will not apply FRS COLA offsets prospectively.
4. The County will pay unpaid FRS COLA offsets for all retroactive periods.
5. Only the wage portion of a lump sum Workers' Compensation settlement will be used in the calculation of the County LTD payment. If a settlement specifically identifies the non-medical portion of the lump sum as "compensation", this amount will be used for the calculation of the County payment. In the event the settlement refers to the non-medical portion as "compensation and rehabilitation", then only 50% of that amount will be used for the calculation of the County payment.
6. Recipients who have been overpaid shall be responsible for paying back that money to the County. Some overpayments will be offset in total or in part by amounts paid by the County for COLA off-sets under paragraphs 2 and 4 above and/or by a reduction in the amount of Workers Comp lump sum portion used in paragraph 5.
7. For current recipients of LTD benefits paid by the County, payback terms will be limited as follows
  - LTD Payments from the County will be reduced by 35%, with a minimum reduction of \$100.00 per pay period; provided the repayment can be accomplished within 5 years;
  - If these amounts are insufficient to complete a re-payment in 5 years they would be adjusted upward or the County would seek repayment in full.
8. The County will seek payment in full from former employees not currently receiving any benefits from the County.
9. Individuals receiving payments or credits under this settlement will release all claims associated with the former LTD program.
10. Local 2928 hereby withdraws with prejudice Grievance 00-23. Local 2928 agrees not to represent any individual or take any collective action, or otherwise initiate any legal or administrative action, relating to the former LTD program, and hereby releases any claims that it has or may have arising from said program.
11. The County agrees not to initiate any legal or administrative action related to the matters specifically addressed in this Agreement, and hereby releases any known claims arising prior to the date of this Agreement relating to said matters, except to the extent agreed to in this Settlement Agreement.
12. Neither party will take any action with respect to the matters contained in the settlement agreement except for the purposes of enforcing the settlement agreement.
13. The Parties acknowledge that this settlement shall be subject to the approval of the Board of County Commissioners.

For Local 2928:

For the County:

*UP Joel E. Bain For MJ Mayo*  
Michael J. Mayo, President

3/7/08  
Date

*Herman Brice*  
Herman Brice, Fire Chief

3-3-08  
Date

08-

**FUND 1304 F/R Long Term Disability Plan**

**BGEX 440 020508\_\_2190**

**Use this form to provide budget for items not anticipated in the budget.**

## EXPENDITURES

## Signatures

02/05/08

**Deputy Clerk to the  
Board of County Commissioners**

2 3/3/08