00-O-1099

AN SUBSTITUTE ORDINANCE BY
FINANCE AND EXECUTIVE COMMITTEE

A SUBSTITUTE ORDINANCE TO AMEND SECTION 6-222 OF THE RELATED LAW SECTION (1978 PENSION ACT) OF THE CHARTER AND THE CODE OF ORDINANCES OF THE CITY OF ATLANTA; AND FOR OTHER PURPOSES.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

Section 1. That Section 6-222. 1978 Pension Act, Part (c.) be amended by changing "2%" to 3%".

Section 2. This ordinance shall be applicable to all active sworn police officers employed as of the effective date of this ordinance.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Sec. 6-222. 1978 pension act.

(a) The pension benefits provided by this section and the several subsections hereof shall be in lieu of like pension benefits provided by the existing provisions of this act [1933 Ga. Laws, page 213, as amended].

(b) (1) Any officer or employee coming under the terms of this act who is in the employment of the city prior to the effective date of this amendment may elect to come under the provisions of this amendment by making written application to the board of trustees. The applicant must agree in writing to accept the benefits and obligations of this amendment, in lieu of other pension benefits and obligations under this act, as amended. All such officers and employees in the employment of the city on the effective date of this act who do not in writing agree to accept the benefits and obligations of this amendment shall have their rights and obligations determined under the law as it existed prior to this amendment, even though such provisions of law are specifically repealed as hereinafter set forth.

All regular officers or employees of the city, eligible for participation in this act, as amended, who shall be elected or employed after the effective date of this act, shall be required to come under provisions of this act, as now amended, and shall have all rights and duties provided in the amended act. Temporary and casual employees shall not be required to participate in this act, as amended.

(2) Pension Application; Procedure. Unless the pension applicant withdraws a pending application for pension benefits, or abandons his or her appeal from the denial of such application by the board of trustees, no new application for a different category of pension benefits shall be accepted by the board of trustees. Further, whenever an officer or employee has been granted a certain category of pension benefits, no new application for a different category shall be accepted by the board of trustees. (1981 Ga. Laws, page 4381, § 1)

(c) All officers and employees, who shall elect or be required to come under the terms of this amendment, may as a matter of right retire from active service and receive a monthly pension benefit hereinafter set forth and referred to hereinafter as a "normal monthly pension benefit," provided such person shall have served 15 years in the active service of such city and shall have attained the age of 55 years prior to commencement of such benefit. Upon such officer or employee retiring as a matter of right, such person shall be paid thereafter a normal monthly pension benefit equal to two percent ~~(2%)~~ (3%) of such person's average monthly earnings multiplied by the number of such person's years, or fraction thereof, of creditable service. Average monthly earnings shall be the average of the monthly earnings of the highest three (3) consecutive years' salary or earnings during the term of employment. In computing the average monthly earnings, if the officer or employee shall have received a lump sum payment for compensation, accumulated vacation, sick leave bonus pay, or similar benefits, the amounts of such payments shall be equally distributed over the period of time in which such compensation or benefit was earned or accumulated.

(d) All officers and employees, who shall elect or be required to come under the terms of this amendment, may as a matter of right retire from active service and receive an early retirement benefit, hereinafter referred to as "early monthly retirement benefit," provided such person shall have served 15 years in the active service of such city. When such officer or employee shall elect early retirement as a matter of right, such person

shall be paid thereafter an early monthly retirement benefit equal to a normal monthly pension benefit less one-half (1/2) of one percent (1%) per month for each month not to exceed 60 months that the officer or employee lacks in being 55 years of age and one-fourth (1/4) of one percent (1%) per month for each month in excess of 60 months that the officer or employee lacks in being 55 years of age. Provided, however, as to any officer or employee coming under the terms of this act who was in the employment of such city prior to the effective date of this amendment, such officer or employee may elect a monthly pension benefit, hereinafter referred to as a "reduced monthly pension benefit," provided such person shall have served 25 years and shall have attained the age of 50 years. Said reduced monthly pension benefit shall be equal to a normal monthly pension benefit less one-twelfth (1/12) of three percent (3%) per month for each month the officer or employee lacks in being 55 years of age.

(e) (1) Whenever any officer or employee, electing to or having been required to come under the terms of this amendment, shall have completed at least five (5) years of active service with such city and not yet have reached the age of 60 years, then such person shall have the right to terminate such person's employment with such city upon completion of said five (5) years, or any time thereafter; elect not to withdraw or have paid to such person the amount which said person would have paid into the pension fund prior to terminating such employment; and upon subsequently attaining 60 years of age commence to receive at said time, and be paid thereafter a monthly pension benefit, hereinafter referred to as a "vested monthly pension benefit," as set forth below based upon the number of years of completed service:

a. Completion of 15 or more years of service--A normal monthly pension benefit.

b. Completion of 10 or more years of service--A normal monthly pension benefit decreased by 10 percent per year for each year or fraction thereof which such completed service lacks being 15 years.

c. Completion of five (5) or more years of service--One-half (1/2) of a normal monthly pension benefit decreased by five percent (5%) per year for each year or fraction thereof which such completed service lacks being 10 years.

Should such person have provided for the payment of a pension to a beneficiary, as authorized by said act, as amended, by making the required payments or contribution to the pension fund, then after terminating the employment with such city, thereby electing to exercise such person's vesting rights, and upon the death of such officer or employee, either before or after attaining 60 years of age, such beneficiary designated under the terms of this act, as amended, shall be entitled to a beneficiary pension equal to three-fourths (3/4) of the amount the pensioner was receiving or such person would have received in accordance with the applicable provisions of this act, as amended.

(2) Pension Benefits; No Simultaneous Payment of Benefits and Salary; No Entitlement to Interest.

a. Whenever an officer or employee has been declared eligible for pension benefits, such pension benefits shall only commence the day following the last day of paid employment for such city.

b. In each and every instance where pension benefits shall become payable pursuant to this act, as amended, such payments shall be limited to the statutorily required amount as provided by this act, as amended, and shall be exclusive of interest or other amounts.

(1981 Ga. Laws, page 4381, § 5)

(f) No department head who elects to come under the provisions of this act shall be entitled to receive any emeritus salary as provided by the governing authorities of any city coming within the provisions of this act.

(g) (1) Any officer or employee who is a member of the pension fund shall be considered totally and permanently disabled by the board of trustees while the officer or employee is in a continuous state of incapacity due to illness or injury:

a. During the first 12 months which the officer or employee is prevented from performing his/her regular assigned or comparable duties; and

b. Thereafter, if the condition continues to prevent the officer or employee from engaging in any occupation for which he/she is or becomes reasonably qualified by education, training or experience.

(2) A member who is considered by the board of trustees to be totally and permanently disabled in accordance with subsection (g)(1)a. and b. on or after January 1, 1986, shall receive a monthly disability benefit which shall commence on the day following the officer's or employee's last date on the payroll and continue until the earlier of:

a. Cessation of total and permanent disability;

b. Attainment of age 55.

(3) Such monthly disability benefit shall be equal to 50 percent of the officer's or employee's average monthly earnings during the highest three (3) consecutive years of service prior to the date of approval by the board of trustees or the officer's or employee's accrued normal retirement benefit, whichever is greater.

(4) Upon the cessation of disability benefits pursuant to section (g)(2)a. or b., and the officer's or employee's failure to return to city employment, the officer or employee would be entitled to a pension benefit as calculated in accordance with subsection b., c. or d. of Ga. Laws 1978, page 4527, as applicable. Provided further, that the calculation of any such subsequent benefit shall include credit for all years and fractions thereof during the time disability pension benefits have been paid, but shall not include credit for any disability pension payments made. Provided further, that for the purposes of calculating any cost-of-living adjustments, the subsequent benefits shall be considered as a new pension with a new effective date.

(5) Disability pension benefits shall be offset by worker's compensation payments so that the combination of payments shall not exceed 75 percent of the officer's or employee's salary at the time disability pension benefits are to commence or 60 percent of an officer's or employee's salary at the time of disability or death in the case of a beneficiary. However, this subsection shall not affect any cost-of-living adjustments as provided in subsection (h), nor prevent the restoration of disability pension benefits payable upon the reduction or termination of any such compensation benefits payable by the city under applicable worker's compensation laws.

(6) a. Pensions for beneficiaries designated under the terms of this act, as amended, shall be three-fourths of the amount the pensioner was receiving, at the time of his death, as a result of retirement as a matter of right or because of total and permanent disability, or three-fourths of the amount such officer or employee would have been entitled to receive had such person retired prior to death.

b. The pension benefits for a primary beneficiary shall be continued to the secondary beneficiary, upon the death, or ineligibility for benefits, of the primary beneficiary. Provided, however, if such primary beneficiary was not receiving the maximum

beneficiary payment provided for in this act because of any provision of this act reducing such amount, such maximum beneficiary amount shall be paid to the secondary beneficiary, notwithstanding any lesser amount previously paid to the primary beneficiary.

c. No spouse, designated as a beneficiary, shall be entitled to receive any of said service pension benefits unless such spouse shall have been legally married to such officer or employee of such city for a period of one (1) year prior to the death of such pensioner; provided the officer or employee has made payment for such benefits prior to retirement.

d. In determining all pensions of officers or employees referred to above, fractional parts of years of service shall be counted and accumulated annual sick leave days credited to such officer or employee shall be counted as provided for in paragraph e.

e. In determining creditable service, accumulated, unused sick leave days credited to such officer or employee shall be added as work days to the creditable service otherwise provided by this act, as amended. In determining average monthly earnings, such accumulated unused sick leave day shall be credited at the highest daily rate of regular salary or earnings during the highest three (3) consecutive years' salary or earnings and all accumulated unused sick leave days shall be substituted for a like number of days at the lowest rate of regular salary or earnings during such highest three (3) consecutive years' salary or earnings during the term of employment.

f. Any person entitled to disability benefits under the provisions of this act, as amended, may receive benefits after he/she has been in the active employment of the city for at least a period of five (5) years. Provided, however, said requirement shall not apply to an officer or employee disabled as a direct result of a traumatic event or events occurring during and as a result of the performance of an officer's or employee's regular or assigned duties and not the result of such officer's or employee's willful negligence.

(7) Disability pensions; annual review. The retirement of a pension applicant by reason of permanent and total disability shall be subject to the following conditions:

a. The board of trustees shall have the right to at least once a year require the pensioner to submit to a medical examination for the purpose of determining whether or not the pensioner has sufficiently recovered from his disability and is able to return to any occupation for which he/she is or becomes reasonably qualified by education, training or experience.

b. If the board, after such examination, determines that the pensioner is not actually totally and permanently disabled but is able to return to any occupation for which he/she is or becomes reasonably qualified by education, training or experience, then the payment of such disability pension shall cease. (1981 Ga. Laws, page 4381, § 3; Ord. No. 1985-94, § 9, 12-19-85; Ord. No. 1987-28, § 1, 4-8-87; Ord. No. 1994-45, § 1, 9-25-94)

Editor's note--The ordinances listed in the left-hand column below are found in the state session laws at the location listed opposite them in the right-hand column below:

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(h) Any person coming under the provisions of this amendment, either voluntarily or by compulsion, shall be entitled to cost-of-living adjustments as hereinafter set forth. As used herein, the following terms shall have the following meanings:

(1) Current average cost-of-living index. The average of the monthly Consumer Price Index for the 12 month period from November 1 through October 31, prior to the annual adjustment date, as determined by the Bureau of Labor Statistics of the United States Department of Labor for all items and major groups, United States city average.

(2) Pensioner base index. The average of the Consumer Price Index for the 12 month period ending two (2) months prior to the date of retirement for any participant who retires under the provisions of this amendment. In the event the base year used in computing the monthly Consumer Price Index should be changed by the Bureau of Labor Statistics, the board of trustees shall, with the advice of an independent actuary, adjust the pensioner base index of each retired pensioner and of each pensioner or beneficiary, with benefit payments commencing during the first year in which such change was made, so as to effect the original intent of this section in an equitable manner.

(3) Adjusted pensioner index. The pensioner base index, adjusted, on a cumulative basis, for all percentage adjustments made in benefits prior to the current annual adjustment date. The adjusted pensioner index and the pensioner base index shall be applicable to any beneficiary becoming entitled to benefits under this amendment in the same manner as they would have been applicable to the pensioner had such pensioner continued in life.

(4) Annual adjustment date. January 1 of each year. The board of trustees shall ascertain the current average cost-of-living index as of January 1 each year, and the benefits being paid under this amendment shall be adjusted as of the annual adjustment date as follows: If the current average cost-of-living index is more than 100 percent of the adjusted pensioner index, the benefit shall be increased by a percentage equal to the difference between 100 percent and the percentage representing the current average cost-of-living index divided by such person's adjusted pensioner index. If the current average cost-of-living index is less than 100% of the adjusted pensioner index, such person's basic benefit shall be reduced by a percentage equal to the difference between 100 percent and the percentage representing the current average cost-of-living index divided by his adjusted pensioner index. Notwithstanding the foregoing provisions of this subsection, no increase or decrease in the amount of the monthly retirement benefit due to changes in the current average cost-of-living index, effective at any annual adjustment date, shall be in excess of three percent (3%) of the amount of the monthly retirement benefit payable immediately prior to such date. Neither shall the provisions of this subsection be applied so as to reduce the amount of the benefits of a pensioner or

beneficiary to any amount less than that to which such pensioner or beneficiary would be entitled to receive under the other provisions of this amendment.

(i) There shall be deducted from the total salary of any officer or employee electing to come under this amendment the sum of seven percent (7%), in the event such person does not provide for payment of a pension to such person's beneficiary, as authorized by this act, as amended, or the sum of eight percent (8%) in the event such person does provide for the continuance of a pension to such person's beneficiary. Like deductions shall be made from the salary of future employees required to come under this amendment.

(j) (1) In addition to the payments required to be made in subsection (i) above, any officer or employee who becomes a participant under this amendment shall be entitled to all benefits and receive credit for all the years, or fraction thereof, of such person's creditable service, provided such person shall pay into the fund the sum of six percent (6%) of such person's total salary or earnings, received by such person during the years claimed for such creditable service, if such person does not provide for the payment of a pension to a beneficiary; and the sum of seven percent (7%) of such person's total salary or earnings, received during the years claimed for such creditable service, if such person does provide for the payment of a pension to a beneficiary. Payments previously made to the pension fund, not exceeding the amount due to the fund, shall be deducted from the total amount due in arriving at the total payment due, plus any additional sums as may be required by the following provisions for prior service credits. If any part of the creditable service consists of prior service, as defined by this act, as amended, which was allowed and credited prior to this amendment, the percentages of salary or earnings, used in computing the sum to be paid for such prior service credit shall be twice those set forth above, and shall constitute both the employee and employer contributions. Provided further that payment for any such creditable service rendered on or after April 1, 1978, shall be twice the payment due as computed above.

Any officer or employee electing to come under the provisions of this amendment within six (6) months subsequent to the enactment of this amendment, shall have a period of 60 months from the date of such election in which to pay all back pension contributions, as provided in this subsection, without interest. Any officer or employee electing to come under the provisions of this amendment, subsequent to the expiration of six (6) months after the enactment of this amendment, shall have a period of 60 months from the date of such election in which to pay all back pension contributions, as provided in this subsection, and shall be required to pay interest on said back pension contributions at the rate of seven percent (7%) per annum from October 1, 1978, to the date of such payment. The board of trustees is authorized to establish rules and regulations for extending the period in which back pension contributions may be paid provided that interest in the amount of seven percent (7%) per annum shall be added to any amounts not paid within the above specified time period. The board of trustees shall require as a prerequisite for the granting of such extension an assignment of life insurance in an amount sufficient to cover the outstanding obligation.

(2) Employee Back Pension Contributions, Deductions From Benefits; Assignment of Group Life Insurance Proceeds.

a. In the event an officer or employee obligated to pay back pension contributions should retire or die before said payments into the fund are completed, the secretary of the

retirement fund is authorized to deduct an appropriate amount, as determined by the board of trustees, from the monthly retirement or beneficiary benefits, or in lieu thereof, such lump sum amounts as the board, in its discretion, deems appropriate until the obligation is discharged.

b. In the event an officer or employee obligated to pay back pension contributions should retire before said payments into the fund are completed, the board of trustees shall require, in consideration of the payment of such indebtedness, an assignment of such officer's or employee's group life insurance in an amount sufficient to satisfy the outstanding obligation. (1981 Ga. Laws, page 4381, § 4)

(k) (1) Any officer or employee coming under the provisions of this amendment shall be entitled to all of the forms and types of prior service authorized under the act approved August 20, 1927 (1927 Ga. Laws, page 265 et seq.) as amended, prior to this amendment. Provided, however, contributions for any such prior service shall be based on the salary or wages then being earned by such officer or employee as and when such person becomes eligible for such prior service and such is credited.

To be eligible for such prior service credit, the officer or employee must have completed at least five (5) continuous years in the employment of the city, and must have filed, five (5) years prior thereto, an application with the board of trustees for such prior service credit. Thereafter prior service credit may be granted to such person eligible and continuing in the service of such city on a pay period basis (one (1) year of prior service credit, not to exceed a maximum of 10 years, for each year such person continues in the service of such city) upon the payment of contributions by such person for such prior service credit based on the wages or salary earned by such person at the time of such prior service being credited.

The contributions to be paid by such officer or employee, herein referred to, shall be at the rates set forth in subsection (i) above, plus the rates of the employer's contribution set forth in subsection (m).

(2) Credit for previous city service, contributions, payment. Any officer or employee claiming previous service credit for previous employment as a regular, temporary, or part-time employee of the city may be eligible for previous service credit immediately upon filing application for same, and upon payment of the contribution in accordance with the provisions set forth in subsection (I) of the 1978 Pension Act Amendment (Ga. Laws 1978, pages 4527, 4534) [subsection (j) of this section]; provided, however, the penalty provision of said subsection (I) shall be applicable only to such officers or employees who failed to elect enrollment under said 1978 Pension Act Amendment prior to October 1, 1978, and who terminated employment subsequent to April 1, 1978. The total amount of such required contributions shall be increased by a sum equal to the amount previously paid into the pension fund by a regular officer or employee and withdrawn upon termination of employment multiplied by an interest factor of seven percent (7%) per annum compounded from the date of termination to the date of filing of the application. The total amount of such required contributions, less a sum equal to the amount previously paid into the pension fund by a regular officer or employee and withdrawn upon termination of employment, shall be increased by an amount equal to such required contributions, less the said amount withdrawn multiplied by an interest factor of seven percent (7%) per annum compounded from the date of termination or October 1, 1978, whichever is later to the date of application. The total amount of such

required contribution shall be decreased by the amount previously paid into the pension fund by a regular officer or employee and not withdrawn upon termination of employment plus an amount equal to seven percent (7%) per annum compounded of such amount not withdrawn from the date of termination to the date of filing of the application. As to credit for part-time or temporary service with the city, such previous service credit shall be on the basis of one (1) day for each day worked by such person as a temporary employee or on a part-time basis; except that the required contribution shall be based upon the gross salary of such person at the time of filing of the application for previous service credit. The payment of the contributions of previous service credit for previous employment as a regular, temporary, or part-time employee of the city may be paid upon the filing of the application for such credit; or such officer or employee shall have a period of sixty (60) months from the date of filing the application in which to pay such contributions; provided, however, the total amount of such contribution shall bear interest at seven percent (7%) per annum on the unpaid balance.

The board of trustees is authorized to establish rules and regulations for extending the period in which back pension contributions may be paid provided that interest in the amount of seven percent (7%) per annum shall be added to any amounts not paid within the above-specified period. The board of trustees shall require as a prerequisite for the granting of such extension an assignment of life insurance in an amount sufficient to cover the outstanding obligation.

(l) This section and the several subsections shall be effective as of April 1, 1978, except for the provisions of subsection (m) which shall be effective as of January 1, 1979. Payments required by subsection (i) above, as to those persons then employed and electing to come under this amendment, shall commence on April 1, 1978. As to such persons subsequently coming into the service of such city or subsequently electing to participate under the terms of this amendment, said payments shall begin with the date of employment or date of such election.

(m) In addition to the funds derived from deductions from salaries and wages, as required by subsection (i) of this amendment, it shall be the duty of the governing authority of such cities to appropriate and pay into the pension fund each year an amount which shall be equal to the actuarially determined percentage of members' salary and wages necessary to pay the normal cost contribution of benefits earned by members and to amortize the unfunded accrued liability of the pension fund within 40 years commencing January 1, 1979, after deducting contributions required of officers and employees required by subsection (i) of this amendment.

For purposes of paying the required employer contributions provided above, the governing authority of such cities shall be authorized to levy ad valorem taxes payable to the pension fund sufficient to amortize the unfunded accrued liability under provisions of this amendment within 40 years commencing January 1, 1979, and upon the determination by an independent actuarial valuation as provided in subsection (n) below that such unfunded accrued liability has been amortized, such authorization to levy such ad valorem taxes shall cease. Should said pension fund at any time be insufficient to meet and pay the pension due to such officers and employees, the governing authority shall appropriate from current funds amounts sufficient to make up the deficiency as it relates to the respective officers and employees and deposit same into said pension fund. Should

such actuarial valuation as provided in subsection (n) below result in a determination that the total required employer contribution would be less than the contribution required of members by subsection (i) of this amendment, then the contributions required of members by subsection (i) of this amendment shall be reduced and the required employer contributions in this subsection shall be increased so that the member contributions required by subsection (i) will not be greater than the required employer contributions under this subsection.

(n) When any person covered by the provisions of this act shall die as a result of injuries incurred in the line of duty, the compensation to which such person would have been entitled had such person continued in active service shall be continued for two years by such city and paid to the primary beneficiary designated by such officer or employee. Any compensation received by the member due to said injury shall be deducted from the two-years' compensation herein provided for. At the expiration of the two-year period referred to above, the pension benefits due the beneficiary shall be computed in accordance with the provisions of this amendment. The pension benefits for a primary beneficiary shall be continued to the secondary beneficiaries upon the death or ineligibility of the primary beneficiary.

The city employing any officer or employee coming under the provisions of this act shall immediately notify the board of trustees upon the occurrence of the disability or death of any such officer or employee, and the board of trustees shall conduct an investigation within 90 days of the date of the event which caused such disability or death. Thereafter, the board of trustees shall make a determination as to whether such disability or death was incurred in line of duty or not in line of duty. Should such city, or any person having an interest in said decision, disagree with such decision of the board then either such city or such person may appeal from such decision as provided by law.

It shall also be the duty and responsibility of the board of trustees to employ an independent actuary to render an actuarial review of the pension fund at periodic intervals of no more than five (5) years, commencing with the enactment of this amendment. The term "independent actuary" as used herein means a fellow of the Society of Actuaries, or a member of the American Academy of Actuaries, or an organization of which one or more members is a fellow of the Society of Actuaries or a member of the American Academy of Actuaries, or both.

(o) In the event there should accumulate more funds than are needed for immediate use, the board of trustees shall be empowered to invest such excess funds as follows:

(1) Without limitation in:

a. Bonds, notes or other obligations of the United States or those guaranteed by the United States or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof.

b. State bonds pledging the full faith and credit of the state and revenue bonds additionally secured by the full credit of the state.

c. Bonds of the several counties or municipalities in the state containing a pledge of the full faith and credit of the counties and municipalities involved.

d. Savings accounts in, or certificates of deposit of, any bank incorporated under the laws of this state or any national bank organized under the laws of the United States doing business and situated in the state, to the extent that such savings accounts are insured by the federal government or an agency thereof.

(2) Not more than 10 percent of such funds in:

a. Bonds, notes or obligations of any municipality or political subdivision or any agency or authority of this state, if such obligations are rated by at least two nationally recognized rating services in any one of the four highest classifications approved by the comptroller of the currency for the investment of the funds of national banks.

b. Savings accounts of any savings and loan association incorporated under the laws of this state or in savings accounts of any federal savings and loan association situated in this state, to the extent that such investments are insured by the federal government or an agency thereof.

c. Savings accounts in, or certificates of deposit of, any bank incorporated under the laws of this state or any national bank organized under the laws of the United States doing business and situated in this state, to the extent that such savings accounts are insured by the federal government or any agency thereof.

d. Notes secured by first liens of Deeds To Secure Debt on real property, insured or guaranteed by the federal housing administration or the Veteran's Administration.

e. Interest-bearing obligations of the International Bank for Reconstruction and Development or the Inter-American Development Bank.

f. Group annuity contracts of an investment type issued by an insurance company authorized to do business in this state.

(3) Not more than 55 percent of such funds in:

a. Common stock, preferred stock, and any obligations of a corporation having an option to convert into common stock, issued by a corporation organized under the laws of the United States, provided:

1. The corporation is listed on any one or more of the recognized national stock exchanges in the United States, or traded on the NASDAQ National Market.

2. The board shall not invest more than three percent of the assets of any fund in common stock, preferred stock and other obligations of any one issuing corporation, and the aggregate investment of any fund in any one issuing corporation shall not exceed three percent of the outstanding capital stock of that corporation.

b. Mutual funds organized under the laws of the United States.

(4) Not more than 65 percent of any fund, in obligations with a fixed maturity of any corporation within the United States or corporation or government registered in the United States, if such obligations are rated by at least two nationally recognized rating services in any one of the four highest classifications approved by the comptroller of the currency for the investment of funds of national banks.

(5) For the purpose of determining the above investment limitations, the value of bonds shall be the par value thereof, and the value of evidence of ownership and obligations having an option to convert to ownership shall be the cost thereof.(Ord. No. 1992-45, § 2, 7-28-92; Ord. No. 1994-13, § 9, 3-24-94; Ord. No. 1996-37, § 1, 6-10-96)

Editor's note--The ordinances listed in the left-hand column below are found in the state session laws at the location listed opposite them in the right-hand column below:

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(p) Notwithstanding any other provisions of this act, as amended, regarding the rights of officers or employees to designate beneficiaries of their pension benefits after their death, every male or female officer, coming under the provisions of this amendment, either voluntarily or by compulsion, having a spouse or unmarried child or children (natural or legally adopted) under the age of 18 years shall be compelled to make the necessary additional contributions in order to provide continued pension benefits for such spouse or unmarried child or children (natural or legally adopted) under the age of 18 years, and designated as beneficiaries.

Nothing herein provided shall prevent an officer or employee from designating a primary beneficiary (spouse or unmarried child or children (natural or legally adopted) under 18 years of age and a secondary beneficiary (either spouse or unmarried child or children (natural or legally adopted) under 18 years of age and not named as primary beneficiary). If an officer or employee designates a beneficiary, and thereafter such beneficiary should cease to be qualified to receive a pension in the event of the member's death, then such officer or employee may at his or her option, designate some other beneficiary who does qualify for pension benefits under this amendment, and continue to make contributions for such beneficiaries, or should no qualified beneficiary exist, cease to make further contributions for beneficiaries, in which event contributions theretofore made for the benefit of a beneficiary shall not be refunded except insofar as refunds may be allowed by other provisions of this act, as amended.

Should any officer or employee become eligible for a service pension, and thereafter remain in the service of such city, then upon the death of such person, without having retired, the spouse of such person may apply for a beneficiary pension as provided for in this amendment, which shall continue for the life of such spouse. In the event of the death or disqualification of a spouse to receive such beneficiary pension, then the unmarried child or children (natural or legally adopted) under the age of 18 years shall succeed to the rights of such deceased or disqualified spouse, as above provided, and such beneficiary pension shall be continued to such child or children until the youngest living child shall reach the age of 18 years, die, or marry, whichever event should first occur. No child (natural or legally adopted) of such officer or employee shall be entitled to receive any benefits unless such child is less than 18 years of age and unmarried, or unless such child is less than 23 years of age and enrolled as a full-time student at an accredited college or university and unmarried.

Any officer or employee coming under the provisions of this amendment either voluntarily or by compulsion, who, at such time, has no qualified beneficiary, either spouse or unmarried child or children under 18 years of age, shall not be required to make the contributions necessary to provide for the continuation of pension benefits to a beneficiary. Provided, however, upon the occurrence of the event by which such officer or employee acquires a qualified beneficiary, then such officer or employee shall

immediately commence making required contributions to provide benefits for such beneficiary and shall within a period of two (2) years thereafter, in addition to current requirements, pay into the pension fund one percent (1%) of his total salary or earnings for all creditable service prior to the occurrence of such event.

Any officer or employee electing to come under the provisions of this act, who prior thereto had a qualified beneficiary but who had not made the contributions to provide for the payment of continued pension benefits to such beneficiary, shall be required to pay to the pension fund the amount of such beneficiary contributions for the number of years of service with such city and during which such officer or employee had a qualified beneficiary, such payments to be at the rates and in the manner as set forth in subsection (j) hereof.

In the event that a member dies after retirement, either before or after receiving retirement payments, the named beneficiary, or the member's estate in the absence of a named beneficiary, shall receive a refund in an amount equal to the amount such member paid into said pension fund less the total amount received by such member or beneficiaries in retirement benefits. (Ord. No. 1985-94, § 10, 12-19-85)

Editor's note--The ordinances listed in the left-hand column below are found in the state session laws at the location listed opposite them in the right-hand column below:

Georgia Laws

Ord. No.	Year	Page
1985-94	--	--

(q) The board of trustees may pool any amount of the funds administered by them with the funds of any other pension or retirement fund for other employees of such city for the purpose of joint investments. When such pooling occurs, the pooled trust funds shall be accounted for in accordance with generally accepted principles of accounting in order to maintain the separate accountability of such pension funds. The board of trustees may employ an independent investment counselor who shall advise them on the best and most appropriate portfolio of investments.

(r) Should an officer or employee in the employment of such cities transfer from a position of employment covered by another pension fund to a position of employment covered by this pension fund, the accumulated employee and employer contributions of such officer or employee paid to such other pension fund shall be transferred to this pension fund and such officer or employee shall be credited with all creditable service certified in such other pension fund as though such service had been rendered under this pension fund, provided, however, that should such officer or employee retire as a matter of right within three (3) years subsequent to the date of such transfer, the service retirement benefits payable to such officer or employee shall be the lesser of the service retirement payable under the provisions of this act, as amended, or the provisions of the pension fund from which such officer or employee transferred.

(s) Any employee participating in the provisions of the act approved February 15, 1933 (Ga. Laws 1933, page 213 et seq.) [this section], or of the several acts amendatory thereof, who leaves the employ of such municipality prior to retirement shall be entitled to a refund of all monies paid into such fund by said employee; provided, however, that such refunds shall be subject to withholding or deduction for any debts owed or amounts due to such municipality by such ex-employee.

(t) The terms of this amendment to said act shall apply to any member who meets the following terms and conditions:

(1) Any officer who has received an in-line-of-duty disability pension from the police officer's pension fund prior to November 13, 1987; and

(2) Thereafter has been reemployed by the city in the police department.

(3) Any such employee meeting the aforementioned conditions shall make application for such credit within 90 days of the enactment of this amendment or within 90 days of their return to work, whichever is later.

(4) Such employee may receive credit toward retirement for the years they received and in-line-of-duty disability pension.

(5) The maximum credit to be received under this amendment at the time of retirement is limited to the number of years an employee works after being reemployed. (Ord. No. 1993-41, § 1, 9-7-93)

(u) Subject to approval by the United States Internal Revenue Service in accordance with IRC section 414(h), employee contributions shall be treated as employer contributions in determining tax treatment effective with the following payroll periods in 1994:

Groups I, III, IV, VI	Pay period 6
Group II	Pay period 11
Group V	Pay period 3

Such contributions shall not be included as gross income of the employee for tax purposes until such time as they are distributed or made available. The City of Atlanta shall reduce the compensation payable to a member in an amount of the contributions made on behalf of the employee.

(v) Any officer or employee who retires pursuant to this section between August 15, 1994, and September 30, 1994, and whose age and creditable service before credit for accrued unused sick leave equals at least 75 years, shall be entitled to a monthly pension benefit upon retirement without any reduction for any age or vesting penalties as would otherwise be applicable. Provided further that such officer or employee shall receive a benefit calculated by adding three (3) years to their service.

Entitlements specified under subsection (v), above, shall be accorded to those officers and employees not covered by the aforesaid 1978 pension amendment, under applicable provisions of amendments to said law adopted prior to the 1978 amendment.

(w) Any officer or employee whose age and creditable service before credit for accrued unused sick leave equals at least 73 years as of March 31, 1998, shall be entitled to a monthly pension benefit upon retirement without any reduction for any age or vesting penalties as would otherwise be applicable.

All officers and employees eligible to retire pursuant to this section must make written application to the pension office between February 13, 1998 and March 31, 1998.

(x) Any officer or employee who was eligible to elect coverage under the pension laws as amended by Ordinance No. 1985-94 and who failed to make such election may do so by making written application on forms provided by the pension office within 60 days of the effective date of this subsection.

(1978 Ga. Laws, page 4527, § 1; 1979 Ga. Laws, page 3616, §§ 1, 2; 1979 Ga. Laws, page 3623, § 1; 1979 Ga. Laws, page 3635, § 1; 1981 Ga. Laws, page 3208, §§ 1, 2; Ord. No. 1994-11, § 3, 3-14-94; Ord. No. 1994-37, § 3, 8-1-94; Ord. No. 1994-45, § 1, 9-25-94; Ord. No. 1998-2, § 1, 2-10-98; Ord. No. 1998-5, § 3, 2-23-98; Ord. No. 2000-2, § 1, 1-11-00)

Editor's note--Ord. No. 1987-28, § 2 provides "The provisions of this amendment shall apply only to all officers and employees who are not covered by the 1986 Amendment" i.e., this subsection (g).

It should be noted that, according to sections 4 and 5 of Ord. No. 1994-37, adopted 8-1-94, approved 8-1-94:

"Based on the number of retirees, only a predetermined number or percentage of those vacant positions can be filled and only at step one (1). To exceed this number or percentage mayor and council approval is required.

The mayor is directed to present to council by the first meeting of December, 1994, not less than 25% and up to 50% of the number of general fund positions which were vacated as a result of this early retirement program for the purpose of abolishing the positions."

Ord. No. 1995-14, approved May 8, 1995, amended Ord. No. 1994-45 to provide that such latter ordinance applied to all active employees as of September 25, 1994. Such latter ordinance removed the age penalties imposed upon a designated pension beneficiary when the surviving spouse is younger in age than the deceased pensioner.

Sec. 6-223. Consent by applicant to participate in system.

The receipt of an applicant's executed enrollment or application card by the commissioner of finance or his agent shall constitute the irrevocable consent of the applicant to participate under the provisions of this act, as amended, or as may hereinafter be amended.

(1980 Ga. Laws, page 3205, § 1)

Sec. 6-224. Refunds regulated.

Except upon the separation of employment other than retirement or death of an employee, or in the case of bookkeeping, clerical or data processing errors, the refund of pension contributions paid by an employee shall be prohibited.

(1980 Ga. Laws, page 3205, § 2)

Sec. 6-225. Tax on salaries of policemen.

Beginning April 1, 1945, three per centum (3%) shall be deducted from the salaries or wages of all members of said police department up to a maximum of $200 per month, or a total of $6.00 per month, but if the member desires to name either his wife or dependent mother or minor child or children as beneficiary, he may do so and in that case, there

shall be deducted the sum of four per centum (4%) from his salary or wage up to a maximum of $200 or a total of $8.00 per month, as and when paid. If the person does not name a beneficiary on or before April 1, 1945, but later decides to name a beneficiary, he shall pay the additional one percent (1%) up to a maximum of $2.00 per month, from April 1, 1945, or the date of his entry into the police department, whichever shall be the latest date; provided, however, that the widow shall not be eligible to receive the pension benefits of the deceased pensioner unless she married such member at least one (1) year before he became eligible to retire by reason of length of service.
(1933 Ga. Laws, page 213, § 9; 1939 Ga. Laws, page 356, § 4; 1945 Ga. Laws, page 1067, § 8)
Editor's note--The provisions compiled in the above section were repealed by 1978 Ga. Laws, page 4527 but have been retained at the request of the city due to their applicability to certain individuals.