AN ORDINANCE
COUNCILMAN C. T. MARTIN

01-O-1135

AMEND SECTION 6-366 OF THE CITY OF ATLANTA'S CODE OF ORDINANCES RELATED LAWS SECTION (1978 PENSION ACT) BY REPEALING EXISTING PROVISIONS GOVERNING FIREFIGHTERS' PENSION BOARD POLICY ON EMPLOYMENT RESTRICTIONS FOR PENSIONED FIREFIGHTERS SEVERLY INJURED IN THE LINE OF DUTY AND SUBSTITUTING IN LIEU THEREOF THE ARTICLE CONTAINED HEREIN; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta recognizes that the duties and responsibilities of its sworn firefighters are inherently dangerous and require its firefighters to routinely place themselves in harm's way in the performance of their duties; and

WHEREAS, the City of Atlanta provides reasonable accommodation to firefighters who are otherwise qualified for sworn positions, consistent with the Americans with Disabilities Act (42 U.S.C. § 14001, et seq.); and

WHEREAS, there are some firefighters who have suffered such severe or catastrophic injuries, making them unable to return to sworn status; and

WHEREAS, the current firefighter disability provisions do not allow for distinctions between mild, moderate, and severe/catastrophic injuries; and

WHEREAS, the City of Atlanta supports the goal of providing a disability plan for its firefighters that accommodates a range of injury levels; and

WHEREAS, such severely or catastrophically injured officers are therefore only able to receive a disability pension; and

WHEREAS, the City of Atlanta respects its responsibilities to prevent and avoid contributing to the financial harm experienced by its firefighters who are severely injured in the line of duty; and

WHEREAS, the current law precludes such pensioned firefighter from supplementing his or her disability benefits through any form of gainful employment, which results in due economic consequences to the firefighter and the firefighter's family; and

WHEREAS, the City of Atlanta has not updated or significantly revised its disability and pension provisions since 1978 and recognizes the need to accommodate the changes in the law and in medical technology; and

WHEREAS, jurisdictions outside of the City of Atlanta have implemented and/or modified their provisions to provide work eligibility for its firefighters who have been severely injured in the line of duty and who have, therefore, been "pensioned"; and

WHEREAS, City of Atlanta firefighters who are severely injured in the line of duty during the early period of their service are inadvertently penalized based upon the current plan for compensation; and

WHEREAS, providing financial protection in the event of serious injury sustained in the line of duty will serve to motivate and promote improved morale among current City of Atlanta firefighters and aid in the recruitment and retention of qualified firefighter personnel in the future; and

WHEREAS, the City of Atlanta recognizes that the opportunity or such firefighters to pursue alternative employment after suffering a permanent and catastrophic, on the job injury is fundamental to recouping self esteem and human dignity; and

WHEREAS, prior to the 1986 Amendment, the City of Atlanta pension and disability provisions did allow an injured employee to seek and, upon approval, obtain eligibility for other employment;

THE CITY COUNCIL OF THE CITY OF ATLANTA GEORGIA HEREBY ORDAINS AS FOLLOWS:

SECTION 1.

That the current ordinance governing the policies of the City of Atlanta's Pension Board, entitled "1978 Pension Act," City of Atlanta Code of Ordinances, Related Laws Section 6-366 (g) be amended to add a new subsection which shall be identified as Section 6-366 (g)(8), and which shall read as follows:

(g) (8) Catastrophic Disability Sustained In The Line Of Duty. A sworn firefighter who has been injured in the line of duty, and whose permanent injury is severe or catastrophic, may make an application to the board through the City of Atlanta Department of Finance, Division of Employee Benefits. The Board is thereafter

authorized to make a finding, by a simple majority vote, that such in the line of duty injury is catastrophic such that the employee is disabled. In connection therewith:

a. The determination of whether a disability was incurred "In The Line Of Duty" or "Not In The Line Of Duty" shall be made by the board in accordance with the board of trustees' investigation procedures as provided in subsection (n) hereof, below.

b. The determination of whether a disability is catastrophic shall be in the sole discretion of the board by a preponderance of the evidence and as supported by official medical records, qualified medical expert opinions, sworn testimony and/or other such reliable source accepted by the board in its discretion. For the purposes of this Code Section, a catastrophic injury is a sudden, violent, life-threatening, injury sustained by a member who is or was employed as a sworn employee by the City at the time of the injury, which injury is due to an externally-caused event or events, as supported by evidence, including, but not specifically limited to, one of the conditions described below: (1) loss of sight in one or both eyes;(2) loss of one or both feet at or above the ankle;(3) loss of one or both hands at or above the wrist;(4) an injury to the spine that results in permanent and complete paralysis of both arms, both legs, or one arm and one leg, or;(5) an externally caused traumatic physical injury to the brain or skull that renders one physically or mentally unable to perform his or her duties.

c. Upon a finding by the board that firefighter or employee covered by the provisions of this Act meets the criteria under this subsection, the firefighter or employee covered by the provisions of this Act shall be entitled to receive compensation or other income from third-party sources while receiving disability pension payments and/or other benefits without suffering any penalty or otherwise forfeiting or waiving any right to continue receiving disability pension benefits the officer or employee would otherwise be entitled to receive pursuant to the pension plan.

d. Should any individual or department of the City having an interest in the board's decision pursuant to this subsection disagree with such decision of the board, then such department may appeal from such decision as provided in subsection (n), hereof, below, and as otherwise provided by law.

e. Any finding by the board that an individual meets the criteria of this subsection shall be subject to periodic review in accordance with subsection (g)(7)a, and any such finding may be rescinded review in accordance with subsection (g)(7)b and only upon motion properly brought forth by a duly authorized member of the board.

f. Any claimed injury to the mind or emotional well-being of an individual shall not serve as basis for a finding that the injury satisfies the criteria of section 1(A) but shall be presumed to be governed by existing provisions regarding non-catastrophic injuries. Any such presumption shall be considered rebuttable.

g. The provisions of this Ordinance Amendment shall be retroactive to 1986.

SECTION 2.
That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3.
If any provision, clause, sentence or paragraph of this Code, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this Article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Code are hereby declared to be severable.

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COUNCILMAN C. T. MARTIN

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FILED BY
CITY COUNCIL

DEC 03 2001

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☑ PERSONAL PAPER REFER

Date Referred 7/16/01

Referred To: Finance/Executive

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee

Date

Chair

Referred to

Committee	Committee
Finance/Exec	
Date 8-1-01	Date
Chair	Chair
Action: Fav, Adv, Hold (see rev. side) Other:	Action: Fav, Adv, Hold (see rev. side) Other:
Members	Members
Refer To	Refer To

Committee	Committee
Date	Date
Chair	Chair
Action: Fav, Adv, Hold (see rev. side) Other:	Action: Fav, Adv, Hold (see rev. side) Other:
Members	Members
Refer To	Refer To

FINAL COUNCIL ACTION

☑ 2nd ☐ 1st & 2nd Readings ☐ 3rd

☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

DEC 3 2001

ATLANTA CITY COUNCIL

CERTIFIED

DEC 03 2001

DEPUTY MUNICIPAL CLERK

MAYOR'S ACTION