

10-0-1892

(Do Not Write Above This Line)

AN ORDINANCE AND CHARTER AMENDMENT

BY FINANCE AND EXECUTIVE COMMITTEE

AN ORDINANCE AND CHARTER AMENDMENT TO AMEND THE CHARTER OF THE CITY OF ATLANTA, GEORGIA, 1996 GA LAWS P. 4469, ET SEQ., ADOPTED UNDER AND BY VIRTUE OF THE AUTHORITY OF THE MUNICIPAL HOME RULE ACT OF 1965, O.C.G.A. SECTION 36-35-1 ET SEQ., AS AMENDED, BY AMENDING PART 1 (CHARTER AND RELATED LAWS), SUBPART A, (CHARTER, ARTICLE III (EXECUTIVE), CHAPTER 5 (CIVIL SERVICE SYSTEM), SECTION 3-507 (MODIFICATION OF PENSION PLANS), SO AS TO REMOVE SUPERFLUOUS LANGUAGE WHICH CONFLICTS WITH LANGUAGE CONTAINED IN CERTAIN PENSION PLANS MAINTAINED BY THE CITY OF ATLANTA, AND TO REMOVE THE LIMITATION ON BENEFITS APPLICABLE TO CERTAIN PENSION PLANS MAINTAINED BY THE CITY OF ATLANTA; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

APPROVED BY:

JERRY L. DE LOACH

ADOPTED BY

DEC 0 6 2010

COUNCIL

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

Date Referred 11/01/10

Referred To: Finance Exec.

Date Referred 11/15/10

Referred To: Finance Exec.

Date Referred

Referred To:

Committee Finance/Reading  
 Date 10-27-10  
 Chair James  
 Referred To Finance/Reading

Committee Finance/Reading  
 Date 11/10/10  
 Chair James  
 Action Fav. Adv. Hold (see rev. side)  
 Other Other  
 Members [Signature]

Date 11/10/10

Chair James

Action Fav. Adv. Hold (see rev. side)

Other Other

Members [Signature]

Committee Finance/Reading  
 Date 11/10/10  
 Chair James  
 Action Fav. Adv. Hold (see rev. side)  
 Other Other  
 Members [Signature]

Date 11/10/10

Chair James

Action Fav. Adv. Hold (see rev. side)

Other Other

Members [Signature]

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 Chair James  
 Action Fav. Adv. Hold (see rev. side)  
 Other Other  
 Members [Signature]

Date 11/10/10

Chair James

Action Fav. Adv. Hold (see rev. side)

Other Other

Members [Signature]

Committee Finance/Reading  
 Date 11/10/10  
 Chair James  
 Action Fav. Adv. Hold (see rev. side)  
 Other Other  
 Members [Signature]

Date 11/10/10

Chair James

Action Fav. Adv. Hold (see rev. side)

Other Other

Members [Signature]

- FINAL COUNCIL ACTION
- 2nd
  - 1st & 2nd
  - 3rd
  - Consent
  - V Vote
  - RC Vote

CERTIFIED

DEC 0 6 2010

ATLANTA CITY COUNCIL PRESIDENT

[Signature]

CERTIFIED

DEC 0 6 2010

MAYOR'S ACTION

[Signature]  
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

DEC 1 5 2010

WITHOUT SIGNATURE  
 BY OPERATION OF LAW



**AN ORDINANCE AND CHARTER AMENDMENT**

**BY FINANCE AND EXECUTIVE COMMITTEE**

**AN ORDINANCE AND CHARTER AMENDMENT TO AMEND THE CHARTER OF THE CITY OF ATLANTA, GEORGIA, 1996 GA LAWS P. 4469, ET SEQ., ADOPTED UNDER AND BY VIRTUE OF THE AUTHORITY OF THE MUNICIPAL HOME RULE ACT OF 1965, O.C.G.A. SECTION 36-35-1 ET SEQ., AS AMENDED, BY AMENDING PART 1 (CHARTER AND RELATED LAWS), SUBPART A, (CHARTER), ARTICLE III (EXECUTIVE), CHAPTER 5 (CIVIL SERVICE SYSTEM), SECTION 3-507 (MODIFICATION OF PENSION PLANS), SO AS TO REMOVE SUPERFLUOUS LANGUAGE WHICH CONFLICTS WITH LANGUAGE CONTAINED IN CERTAIN PENSION PLANS MAINTAINED BY THE CITY OF ATLANTA, AND TO REMOVE THE LIMITATION ON BENEFITS APPLICABLE TO CERTAIN PENSION PLANS MAINTAINED BY THE CITY OF ATLANTA; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, Section 3-507 of the Charter of the City of Atlanta, Georgia, 1996 Ga. Laws P. 4469, et seq. (hereinafter "the Charter") modifies pensions for officials and employees of cities having a population of 300,000 as provided in Georgia Law by proscribing certain rules and procedures; and

**WHEREAS**, currently, Section 3-507(5) of the Charter provides language which describes how an employee's annual benefit attributable to nonemployee contributions shall be limited; and

**WHEREAS**, conflicting language concerning this limitation of benefits is currently contained within certain pension plans maintained by the City of Atlanta; and

**WHEREAS**, because language concerning this benefit limitation is contained in these pension plans, it is not necessary to include such language in the Charter; and

**WHEREAS**, it is the desire of the City of Atlanta to amend Section 3-507 of the Charter so to remove this superfluous and conflicting language; and

**WHEREAS**, currently, Section 3-507(6) of the Charter provides that "[a]n employee or officer who is not entitled to benefits at or after his or her last termination date must, within seven years thereafter, apply for a refund of his or her employee contributions to the fund; otherwise said contributions shall be forfeited to the pension fund;" and

**WHEREAS**, it is the desire of the City of Atlanta to amend Section 3-507 of the Charter so that that this forfeiture of benefits provision shall be deleted.



**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:**

**SECTION 1:** That Part 1, Subpart A, Article III, Chapter 5, Section 3-507, of the Charter of the City Of Atlanta, Georgia, 1996 Ga. Laws P. 4469, et seq., which currently reads:

**Section 3-507.** - Modification of pension plans.

As authorized by the provisions of the Constitution of the State of Georgia of 1983, Article IX, Section II, Paragraph III(a)(14), the Acts, approved February 15, 1933, August 13, 1927, and August 20, 1974 (found respectively at Ga. L. 1933, p. 213, et seq.; Ga. L. 1927, p. 265, et seq.; Ga. L. 1924, p. 167, et seq., all as amended), providing for pensions for officials and employees of cities having a population of 300,000 or more according to the United States Census of 1920 or any subsequent census thereof, shall be modified, insofar as they appertain to employees and officials of the City of Atlanta and its board of education in accordance with the following rules and procedures:

- (1) Any other provisions in the Charter notwithstanding, any pension law modification shall be effected only by ordinance adopted by at least two-thirds of the total membership of the council and duly approved by the mayor;
- (2) Any such ordinance shall be considered by the council only after receipt of:
  - a. An investigation by an independent actuary of any such proposed modification, evidenced by a written report from such actuary which shall include, but not be limited to, such actuary's analysis of the funding requirements relating to any such modification and the opinion of such actuary as to the propriety of any such modification. Any such opinion must state that such modification is in conformity with applicable state laws governing the funding requirements for modifications to such pension plans. Such opinion shall be accompanied by the written recommendations of the city attorney and chief financial officer;
  - b. A written recommendation concerning such ordinance adopted by at least two-thirds of the membership of the board of trustees of each of the respective pension funds affected by such modification; such recommendation shall be considered by, but shall not be binding upon, the council;
  - c. Any such ordinance modifying the Act approved August 13, 1927 (Ga. L. 1927, p. 265 et seq., as amended) and affecting employees of the Atlanta Board of Education shall become effective as to such employees only after such modification is adopted by a majority of the total membership of the Atlanta Board of Education.



- (3) No substitute or amendment to any ordinances presented to the council hereunder shall be considered without a subsequent investigation of such proposed substitute or amendment by an independent actuary as provided in (b)(1), hereinabove, and the recommendation of the board of trustees of the respective pension fund affected by such modification as set forth in (b)(2), hereinabove;
- (4) No ordinance which modifies any of the aforesaid pension laws and has a fiscal impact on the pension systems established by such laws shall be adopted by the council or approved by the mayor until adequate provision for funding such modification has been made to defray the fiscal impact of such modification;
- (5) *Limitation on annual benefit.* Notwithstanding any provisions to the contrary, an employee's or officer's annual benefit attributable to nonemployee contributions shall not exceed the lesser of: (a) 100 percent of the employee's or officer's highest three consecutive years' average applicable compensation or (b) a dollar amount which is adjusted for inflation based on section 215(i)(2)A of the Social Security Act, as amended. Furthermore, if the employee or officer retires before age 62 the limit shall be actuarially reduced in accordance with Internal Revenue Code Section 415(b), as now or hereafter amended;
- (6) *Forfeiture of benefits.* An employee or officer who is not entitled to any vested continuing pension benefits at or after his or her last termination date must, within seven years thereafter, apply for a refund of his or her employee contributions to the fund; otherwise said contributions shall be forfeited to the pension fund.

be amended to delete subsections (5) and (6), such that Part 1, Subpart A, Article III, Chapter 5, Section 3-507, of the Charter of the City Of Atlanta, Georgia, 1996 Ga. Laws P. 4469, et seq., shall read as follows:

**Section 3-507.** - Modification of pension plans.

As authorized by the provisions of the Constitution of the State of Georgia of 1983, Article IX, Section II, Paragraph III(a)(14), the Acts, approved February 15, 1933, August 13, 1927, and August 20, 1974 (found respectively at Ga. L. 1933, p. 213, et seq.; Ga. L. 1927, p. 265, et seq.; Ga. L. 1924, p. 167, et seq., all as amended), providing for pensions for officials and employees of cities having a population of 300,000 or more according to the United States Census of 1920 or any subsequent census thereof, shall be modified, insofar as they appertain to employees and officials of the City of Atlanta and its board of education in accordance with the following rules and procedures:

- (1) Any other provisions in the Charter notwithstanding, any pension law modification shall be effected only by ordinance adopted by at least two-



thirds of the total membership of the council and duly approved by the mayor;

- (2) Any such ordinance shall be considered by the council only after receipt of:
  - a. An investigation by an independent actuary of any such proposed modification, evidenced by a written report from such actuary which shall include, but not be limited to, such actuary's analysis of the funding requirements relating to any such modification and the opinion of such actuary as to the propriety of any such modification. Any such opinion must state that such modification is in conformity with applicable state laws governing the funding requirements for modifications to such pension plans. Such opinion shall be accompanied by the written recommendations of the city attorney and chief financial officer;
  - b. A written recommendation concerning such ordinance adopted by at least two-thirds of the membership of the board of trustees of each of the respective pension funds affected by such modification; such recommendation shall be considered by, but shall not be binding upon, the council;
  - c. Any such ordinance modifying the Act approved August 13, 1927 (Ga. L. 1927, p. 265 et seq., as amended) and affecting employees of the Atlanta Board of Education shall become effective as to such employees only after such modification is adopted by a majority of the total membership of the Atlanta Board of Education.
- (3) No substitute or amendment to any ordinances presented to the council hereunder shall be considered without a subsequent investigation of such proposed substitute or amendment by an independent actuary as provided in (b)(1), hereinabove, and the recommendation of the board of trustees of the respective pension fund affected by such modification as set forth in (b)(2), hereinabove;
- (4) No ordinance which modifies any of the aforesaid pension laws and has a fiscal impact on the pension systems established by such laws shall be adopted by the council or approved by the mayor until adequate provision for funding such modification has been made to defray the fiscal impact of such modification;
- ~~(5) **Limitation on annual benefit. Notwithstanding any provisions to the contrary, an employee's or officer's annual benefit attributable to nonemployee contributions shall not exceed the lesser of: (a) 100 percent of the employee's or officer's highest three consecutive years' average applicable compensation or (b) a dollar amount which is adjusted for inflation based on section**~~



~~215(i)(2)A of the Social Security Act, as amended. Furthermore, if the employee or officer retires before age 62 the limit shall be actuarially reduced in accordance with Internal Revenue Code Section 415(b), as now or hereafter amended;~~

~~(6) — *Forfeiture of benefits.* An employee or officer who is not entitled to any vested continuing pension benefits at or after his or her last termination date must, within seven years thereafter, apply for a refund of his or her employee contributions to the fund; otherwise said contributions shall be forfeited to the pension fund.~~

**Section 2:** That a copy of this proposed amendment to the Charter of the City of Atlanta, Georgia 1996 Ga. L., et seq. as amended, shall be filed in the Office of the Municipal Clerk of the City of Atlanta and in the Offices of the Clerks of the Superior Courts of Fulton and DeKalb Counties and that a "Notice of Proposed Amendment to the Charter of the City of Atlanta, Georgia," attached hereto and marked Exhibit "A" and made a part of this ordinance, be published in the official organ of the county of the legal situs of the City of Atlanta or in a newspaper of general circulation in the City of Atlanta once a week for three weeks within a period of 60 days immediately preceding its final adoption, and that a copy of said advertisement be attached to this ordinance prior to its final adoption by the Council of the City of Atlanta.

**Section 3:** That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

A true copy,

*Rhonda Daughlin Johnson*  
Municipal Clerk

ADOPTED by the Atlanta City Council  
RETURNED WITHOUT SIGNATURE OF THE MAYOR  
APPROVED as per City Charter Section 2-403

DEC 06, 2010

DEC 15, 2010

