10-O-1895

(Do Not Write Above This Line)

AN ORDINANCE

BY FINANCE AND EXECUTIVE COMMITTEE

AN ORDINANCE TO AMEND THE CITY OF ATLANTA POLICE OFFICERS' PENSION FUND SO AS TO MODIFY CERTAIN LIMITATIONS ON BENEFITS PURSUANT TO CHANGES IN THE U.S. INTERNAL REVENUE CODE TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

APPROVED BY:

JERRY L. DE LOACH

ADOPTED BY

DEC 06 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

Refferred To:

Date Referred

Referred To:

First Reading

Committee Finance/Executive

Date 10-27-10

Chair Adrean

Referred To Finance/Executive

Committee Fin/Exec	Committee
Date 11/10/10	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 Finance/Executive	Committee
Date 12/1/10	Date
Chair Felicia A. Moore	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 ☐ 3rd Readings

☐ Consent ☐ V Vote ☑ RC Vote

CERTIFIED

CERTIFIED

DEC 06 2010

ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED

DEC 06 2010

Rhonda Dauphin Johnson

MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

DEC 15 2010

WITHOUT SIGNATURE BY OPERATION OF LAW

CITY COUNCIL
ATLANTA, GEORGIA

10- O -1895

AN ORDINANCE

BY FINANCE AND EXECUTIVE COMMITTEE

AN ORDINANCE TO AMEND THE CITY OF ATLANTA POLICE OFFICERS' PENSION FUND SO AS TO MODIFY CERTAIN LIMITATIONS ON BENEFITS PURSUANT TO CHANGES IN THE U.S. INTERNAL REVENUE CODE TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the federal Internal Revenue Service has made modifications to the U.S. Internal Revenue Code Section 415 which impacts the Police Officers' Pension Fund; and

WHEREAS, it is the desire of the City of Atlanta to amend Sections 6-250 and 6-255 of Atlanta City Code, Part I (Charter and Related Laws), Subpart B (Related Laws), Chapter 6 (Pensions), Article III (Police Department) in order to comply with the requirements of the federal regulations.

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

SECTION 1: That Part I, Subpart B, Chapter 6, Article III, Section 6-250 of the Code of Ordinances of the City of Atlanta, Georgia, Georgia Laws 1924, p. 167, which currently reads:

Sec. 6-250. - Limitation on benefits.

(a) *Basic limitation.* Notwithstanding any provision of this Act, 1927 Ga. Laws, page 265, as amended, to the contrary, the amount of an officer's or employee's annual retirement benefit, calculated as a single life annuity commencing before age 62 or after age 65, shall not exceed $160,000, as adjusted as of the first day of each limitation year to the dollar limitation determined by the Commissioner of Internal Revenue pursuant to regulations issued by the Secretary of the Treasury under the authority granted by section 415(d) of the U.S. Internal Revenue Code (the 'Code') (the 'Maximum Permissible Dollar Amount'). For purposes of this section, the term 'limitation year' shall mean the calendar year.

As of each January 1, the dollar limitation as determined by the Commissioner of Internal Revenue for that calendar year will become effective as the Maximum Permissible Dollar Amount for that calendar year. The dollar limitation applicable to officers and employees who have commenced distribution of their benefit shall be adjusted annually to reflect any changes to the Maximum Permissible Dollar Amount.

Employee contributions treated as employer contributions made pursuant to section 6-37(u) shall be considered a part of the benefit subject to the limitations of this section. Officer or employee contributions for prior service with certain other employers shall be subject to the rules of section 6-94. Employee contributions not made pursuant to section 6-37(u) and not made for credit for prior service with certain other employers shall be converted to an annual benefit amount pursuant to Code section 411(c)(2)(B) and shall be subtracted from the total annual benefit subject to the limitations of this subsection (a), provided that such contributions shall be considered to be a separate defined contribution plan maintained by the City of Atlanta and subject to the limitations of Code section 415(c).

Notwithstanding the foregoing, the following values shall not be taken into account in adjusting any benefit under the act to a single life annuity:

(1) the value of a qualified joint and survivor annuity (as defined in Code section 417 and the regulations thereunder) to the extent such value exceeds the sum of (A) the value of a single life annuity beginning on the same date and (B) the value of any post-retirement death benefits that would be payable even if the annuity was not in the form of a joint and survivor annuity,
(2) the value of benefits that are not directly related to retirement benefits (such as pre-retirement disability and death benefits); and
(3) the value of benefits that reflect post-retirement cost-of-living increases to the extent such increases are in accordance with Code section 415(d) and the regulations thereunder.

(b) *Exception to Basic Limitation.* If the annual retirement benefit payable to an officer or employee under this act does not exceed $10,000 for the limitation year with respect to which a determination is being made or any prior limitation year, and the officer or employee has not at any time participated in a defined contribution plan maintained by the City of Atlanta, the limitation otherwise imposed by subsection (a) shall not apply.

(c) *Reduction for Fewer Than 10 Years of Participation.* If an officer or employee has participated under the provisions of this act for fewer than 10 years, the Maximum Permissible Dollar Amount shall be adjusted by multiplying such limitation by a fraction, the numerator of which is the number of the officer's or employee's years of participation as of such date (and any fraction thereof) and the denominator of which is 10. The foregoing reduction shall not apply to (1) disability retirement benefits received by an officer or employee under this act or (2) death benefits received by an officer's or employee's beneficiary under this act.

(d) *Actuarial Adjustment When Benefits Commence Before Age 62 or After Age 65.* If an officer's or employee's annual retirement benefit commences before he attains age 62, the Maximum Permissible Dollar Amount for the limitation year shall be reduced so that it is the actuarial equivalent of the Maximum Permissible

Dollar Amount that would be applicable if the retirement benefit had commenced at age 62. The interest rate assumption used to make such actuarial reduction shall be the greater of 5% or the interest rate specified in the act for determining actuarial equivalence for early retirement benefits applicable to the officer or employee. If an officer's or employee's retirement benefit commences after age 65, the Maximum Permissible Dollar Amount for the limitation year shall be increased so that it is the actuarial equivalent of the Maximum Permissible Dollar Amount at age 65. The interest rate assumption used to make such actuarial increase shall be 5%. The actuarial adjustments required under this subsection (d) shall be computed using the mortality table prescribed by Revenue Ruling 2001-62, 2001-2 C.B. 632, or any successor revenue ruling, notice or other guidance provided by the Commissioner of Internal Revenue that establishes a replacement mortality table pursuant to Code section 415(b)(2)(E)(v).
Notwithstanding the foregoing, the Maximum Permissible Dollar Amount shall not be reduced by reason of the commencement of annual retirement benefits before age 62 for (1) any full-time officer or employee of any police or fire department that is organized and operated by the City of Atlanta, (2) disability retirement benefits paid to an officer or employee pursuant to this act or (3) a death benefit paid to a beneficiary pursuant to this act.

(e) *Preservation of Old Law Benefits.* In the case of an officer or employee who participated in one or more defined benefit plans of the City of Atlanta as of the first day of the first limitation year beginning after December 31, 1994, the application of the limitations of this section shall not cause the maximum permissible benefit for such officer or employee under all such defined benefit plans to be less than the officer's or employee's RPA '94 Old-Law Benefit.

For officers or employees with RPA '94 Old-Law Benefits, for purposes of determining whether an officer's or employee's benefit exceeds the limitations of this section after December 31, 1999 (the "RPA '94 Freeze Date"), an officer's or employee's total annual benefit under the act calculated as a straight life annuity shall be determined, and this benefit shall not exceed the Maximum Permissible Dollar Amount applicable to the officer or employee. Where an officer's or employee's benefit must be adjusted to an actuarially equivalent straight life annuity, such adjustment shall be calculated as provided under subsection (a) above.

In no event shall an officer or employee receive less than the officer's or employee's RPA '94 Old-Law Benefit. For purposes of determining that an officer or employee receives no less than the officer's or employee's RPA '94 Old-Law Benefit, the limitation applicable to the officer's or employee's RPA '94 Old-Law Benefit ("Old-Law Limitation") shall be determined, and the officer or employee shall receive the RPA '94 Old-Law Benefit to the extent it does not exceed such Old-Law Limitation. Before January 1, 2000 (the "Final Implementation Date"), adjustments to the Old-Law Limitation for benefits that commence before age 62 or after age 65 shall be calculated as provided under Code section 415(b)(2)(E) and the terms of the act as in effect on December 7, 1994. On or after the Final

Implementation Date, adjustments to the Old Law Limitation for commencement of benefits before age 62 or after age 65 shall be calculated as provided in subsection (d) above. In no event, however, may an officer's or employee's Old-Law Benefit exceed the officer's or employee's Old-Law Benefit as of the RPA '94 Freeze Date.

For the purposes of this subsection, the term "RPA '94 Old-Law Benefit" shall mean the officer's or employee's accrued benefit under the terms of the act as of the RPA '94 Freeze Date, for the annuity starting date and optional form and taking into account the limitations of Code section 415 as in effect on December 7, 1994, including the participation requirements under Code section 415(b)(5). In determining the amount of an officer's or employee's RPA Old-Law Benefit, the following shall be disregarded: (1) any ordinance or amendment to the act increasing benefits adopted after the RPA '94 Freeze Date, and (2) any cost-of-living adjustments that become effective under Code section 415(d) after the RPA '94 Freeze Date.

If, at any date after the RPA '94 Freeze Date, the officer's or employee's total benefit under the act, before the application of Code section 415, is less than the officer's or employee's Old-Law Benefit, the RPA '94 Old-Law Benefit will be reduced to a benefit equal to the officer's or employee's total benefit.

The use of a different interest rate and mortality table may not increase an officer's or employee's RPA '94 Old-Law Benefit to an amount greater than such benefit as of the RPA '94 Freeze Date.

be amended to make the following deletions and insertions, such that Part I, Subpart B, Chapter 6, Article III, Section 6-250 of the Code of Ordinances of the City of Atlanta, Georgia, Georgia Laws 1924, p. 167, shall read as follows:

Sec. 6-250. - Limitation on benefits.

(a) *Basic limitation.* Notwithstanding any provision of this Act, 1927 Ga. Laws, page 265, as amended, to the contrary, the amount of an officer's or employee's annual retirement benefit, calculated as a single life annuity commencing before age 62 or after age 65, shall not exceed $160,000, as adjusted as of the first day of each limitation year to the dollar limitation determined by the Commissioner of Internal Revenue pursuant to regulations issued by the Secretary of the Treasury under the authority granted by section 415(d) of the U.S. Internal Revenue Code (the 'Code') (the 'Maximum Permissible Dollar Amount'). For purposes of this section, the term 'limitation year' shall mean the calendar year.

As of each January 1, the dollar limitation as determined by the Commissioner of Internal Revenue for that calendar year will become effective as the Maximum Permissible Dollar Amount for that calendar year. The dollar limitation applicable to officers and employees who have commenced distribution of their

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benefit shall be adjusted annually to reflect any changes to the Maximum Permissible Dollar Amount.

Employee contributions treated as employer contributions made pursuant to section 6-37(u) shall be considered a part of the benefit subject to the limitations of this section. Officer or employee contributions for prior service with certain other employers shall be subject to the rules of section 6-94. Employee contributions not made pursuant to section 6-37(u) and not made for credit for prior service with certain other employers shall be converted to an annual benefit amount pursuant to Code section 411(c)(2)(B) and shall be subtracted from the total annual benefit subject to the limitations of this subsection (a), provided that such contributions shall be considered to be a separate defined contribution plan maintained by the City of Atlanta and subject to the limitations of Code section 415(c).

~~Notwithstanding the foregoing, the following values shall not be taken into account in adjusting any benefit under the act to a single life annuity:~~

~~(1) the value of a qualified joint and survivor annuity (as defined in Code section 417 and the regulations thereunder) to the extent such value exceeds the sum of (A) the value of a single life annuity beginning on the same date and (B) the value of any post-retirement death benefits that would be payable even if the annuity was not in the form of a joint and survivor annuity,~~

~~(2) the value of benefits that are not directly related to retirement benefits (such as pre-retirement disability and death benefits); and~~

~~(3) the value of benefits that reflect post-retirement cost-of-living increases to the extent such increases are in accordance with Code section 415(d) and the regulations thereunder.~~

If the form of payment under the act is other than a straight-life annuity (with no ancillary benefits), or if the officer or employee has made mandatory or voluntary contributions or rollover contributions, or if any portion of the payment is attributable to assets transferred to the fund from another qualified plan not maintained by the City of Atlanta, the benefit shall be adjusted so that it is actuarially equivalent to a straight-life annuity with no ancillary benefits. For purposes of adjusting any benefit, the actuarially equivalent amount shall be the greater of: (i) the annual amount of the straight life annuity (if any) payable to the officer or employee under the act commencing at the same annuity starting date as the form of benefit payable to the officer or employee; or (ii) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the officer or employee, computed using a 5 percent interest rate and the Applicable Mortality Table. No actuarial adjustment shall be required to reflect the value of any of the following: (A) that portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity (as defined in Code section 417); (B) benefits that are not directly related to retirement benefits, such as pre-retirement disability and death benefits, and post-retirement medical benefits;

and (C) post-retirement cost-of-living increases made in accordance with Code section 415(d) and the regulations thereunder.

The provisions of this Section 6-93 shall be applied in accordance with the rules of Code section 415 and the regulations thereunder, and the relevant provisions of the regulations are incorporated by reference herein. If payments to or on behalf of an officer or employee begin on multiple dates, the rules of this Section 6-93 shall be applied on each such date to the relevant portion of the benefit.

(b) *Exception to Basic Limitation.* If the annual retirement benefit payable to an officer or employee under this act does not exceed $10,000 for the limitation year with respect to which a determination is being made or any prior limitation year, ~~and the officer or employee has not at any time participated in a defined contribution plan maintained by the City of Atlanta, the limitation otherwise imposed by subsection (a) shall not apply.~~ and the City of Atlanta has not at any time maintained a defined contribution plan (as determined pursuant to the Code section 415(d) regulations) in which the officer or employee has participated, the limitation otherwise imposed by subsection (a) shall not apply. For purposes of determining whether any officer or employee has ever participated in a defined contribution plan, mandatory employee contributions to any defined benefit plan maintained by the City of Atlanta are not to be treated as a separate defined contribution plan maintained by the City of Atlanta.

(c) *Reduction for Fewer Than 10 Years of Participation.* If an officer or employee has participated under the provisions of this act for fewer than 10 years, the Maximum Permissible Dollar Amount shall be adjusted by multiplying such limitation by a fraction, the numerator of which is the number of the officer's or employee's years of participation as of such date (and any fraction thereof) and the denominator of which is 10. The foregoing reduction shall not apply to (1) disability retirement benefits received by an officer or employee under this act or (2) death benefits received by an officer's or employee's beneficiary under this act.

(d) *Actuarial Adjustment When Benefits Commence Before Age 62 or After Age 65.* If an officer's or employee's annual retirement benefit commences before he attains age 62, the Maximum Permissible Dollar Amount for the limitation year shall be reduced so that it is the actuarial equivalent of the Maximum Permissible Dollar Amount that would be applicable if the retirement benefit had commenced at age 62. ~~The interest rate assumption used to make such actuarial reduction shall be the greater of 5% or the interest rate specified in the act for determining actuarial equivalence for early retirement benefits applicable to the officer or employee. If an officer's or employee's retirement benefit commences after age 65, the Maximum Permissible Dollar Amount for the limitation year shall be increased so that it is the actuarial equivalent of the Maximum Permissible Dollar Amount at age 65. The interest rate assumption used to make such actuarial increase shall be 5%. The actuarial adjustments required under this subsection (d) shall be computed using the mortality table prescribed by Revenue Ruling~~

~~2001-62, 2001-2 C.B. 632, or any successor revenue ruling, notice or other guidance provided by the Commissioner of Internal Revenue that establishes a replacement mortality table pursuant to Code section 415(b)(2)(E)(v).~~ The actuarially equivalent amount shall be equal to the lesser of (A) the Maximum Permissible Dollar Amount multiplied by the ratio of the annual retirement benefit payable under the act at the time payments are scheduled to commence, without regard to the limits of this Section 6-93, to the annual retirement benefit commencing at age 62, without regard to the limits of this Section 6-93, and (B) the actuarially equivalent amount using a 5 percent interest rate and the Applicable Mortality Table. To the extent that benefits will not be forfeited upon the death of the officer or employee, the mortality decrement shall be ignored for purposes of determining any reduction in the dollar limitation. If any benefits are forfeited upon death, the full mortality decrement shall be taken into account. If an officer's or employee's annual retirement benefit commences after age 65, the Maximum Permissible Dollar Amount for the limitation year shall be increased so that it is the actuarial equivalent of the Maximum Permissible Dollar Amount at age 65. The actuarially equivalent amount shall be equal to the lesser of: (A) the Maximum Permissible Dollar Amount multiplied by the ratio of the annual retirement benefit under the act at the time payments are scheduled to commence, disregarding accruals after age 65 and without regard to the limits of this Section 6-93, to the annual retirement benefit commencing at age 65, without regard to the limits of this Section 6-93, and (B) the actuarially equivalent amount determined using a 5 percent interest rate and the Applicable Mortality Table.

Notwithstanding the foregoing, the Maximum Permissible Dollar Amount shall not be reduced by reason of the commencement of annual retirement benefits before age 62 for (1) any full-time officer or employee ~~of any police or fire department~~ with at least 15 years of full-time service with any police or fire department that is organized and operated by the City of Atlanta, (2) disability retirement benefits paid to an officer or employee pursuant to this act or (3) a death benefit paid to a beneficiary pursuant to this act.

(e) *Applicable Mortality Table.* On or after January 1, 2008, "Applicable Mortality Table" shall mean the mortality table specified by the Secretary of the Treasury pursuant to Code section 417(e)(3)(B). Before January 1, 2008, "Applicable Mortality Table" shall mean the mortality table prescribed by Revenue Ruling 2001-62, 2001-2 C.B. 632, or any successor revenue ruling, notice or other guidance provided by the Commissioner of Internal Revenue that establishes a replacement mortality table pursuant to Code section 415(b)(2)(E)(v).

~~(e)~~(f) *Preservation of Old Law Benefits.* In the case of an officer or employee who participated in one or more defined benefit plans of the City of Atlanta as of the first day of the first limitation year beginning after December 31, 1994, the application of the limitations of this section shall not cause the maximum

permissible benefit for such officer or employee under all such defined benefit plans to be less than the officer's or employee's RPA '94 Old-Law Benefit.

For officers or employees with RPA '94 Old-Law Benefits, for purposes of determining whether an officer's or employee's benefit exceeds the limitations of this section after December 31, 1999 (the "RPA '94 Freeze Date"), an officer's or employee's total annual benefit under the act calculated as a straight life annuity shall be determined, and this benefit shall not exceed the Maximum Permissible Dollar Amount applicable to the officer or employee. Where an officer's or employee's benefit must be adjusted to an actuarially equivalent straight life annuity, such adjustment shall be calculated as provided under subsection (a) above.

In no event shall an officer or employee receive less than the officer's or employee's RPA '94 Old-Law Benefit. For purposes of determining that an officer or employee receives no less than the officer's or employee's RPA '94 Old-Law Benefit, the limitation applicable to the officer's or employee's RPA '94 Old-Law Benefit ("Old-Law Limitation") shall be determined, and the officer or employee shall receive the RPA '94 Old-Law Benefit to the extent it does not exceed such Old-Law Limitation. Before January 1, 2000 (the "Final Implementation Date"), adjustments to the Old-Law Limitation for benefits that commence before age 62 or after age 65 shall be calculated as provided under Code section 415(b)(2)(E) and the terms of the act as in effect on December 7, 1994. On or after the Final Implementation Date, adjustments to the Old Law Limitation for commencement of benefits before age 62 or after age 65 shall be calculated as provided in subsection (d) above. In no event, however, may an officer's or employee's Old-Law Benefit exceed the officer's or employee's Old-Law Benefit as of the RPA '94 Freeze Date.

For the purposes of this subsection, the term "RPA '94 Old-Law Benefit" shall mean the officer's or employee's accrued benefit under the terms of the act as of the RPA '94 Freeze Date, for the annuity starting date and optional form and taking into account the limitations of Code section 415 as in effect on December 7, 1994, including the participation requirements under Code section 415(b)(5). In determining the amount of an officer's or employee's RPA Old-Law Benefit, the following shall be disregarded: (1) any ordinance or amendment to the act increasing benefits adopted after the RPA '94 Freeze Date, and (2) any cost-of-living adjustments that become effective under Code section 415(d) after the RPA '94 Freeze Date.

If, at any date after the RPA '94 Freeze Date, the officer's or employee's total benefit under the act, before the application of Code section 415, is less than the officer's or employee's Old-Law Benefit, the RPA '94 Old-Law Benefit will be reduced to a benefit equal to the officer's or employee's total benefit.

The use of a different interest rate and mortality table may not increase an officer's or employee's RPA '94 Old-Law Benefit to an amount greater than such benefit as of the RPA '94 Freeze Date.

Section 2: That Part I, Subpart B, Chapter 6, Article III, Section 6-255 of the Code of Ordinances of the City of Atlanta, Georgia, Georgia Laws 1924, p. 167, which currently reads:

Sec. 6-255. - Eligible rollover distributions.

(a) *General Rule.* The distributee of any eligible rollover distribution made under this Act, 1927 Ga. Laws, page 265, as amended, may elect, in the manner and at the time specified by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) *Definitions.*

(1) *Distributee.* For purposes of this section, a "distributee" shall include any current or former officer or employee who has a right to a benefit under this act. In addition, the surviving spouse or registered domestic partner of any such current or former officer or employee shall be a distributee with respect to the interest of such surviving spouse or registered domestic partner.

(2) *Eligible Rollover Distribution.* For purposes of this section, an `eligible rollover distribution' is any distribution from the fund established under the act 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 ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the U.S. Internal Revenue Code (the `Code'); and any hardship distribution.

(3) *Eligible Retirement Plan.* For purposes of this section, an `eligible retirement plan' is an individual retirement account or annuity described in Code sections 408(a) or 408(b); a qualified trust described in Code section 401(a); an annuity plan described in Code section 403(a); an annuity contract described in Code section 403(b); and an eligible deferred compensation plan described in 457(b) that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to account separately for amounts transferred into such plan from this fund. With respect to that portion of an eligible rollover distribution that consists of after-tax contributions that are not includible in

gross income, an eligible retirement plan shall include only an individual retirement account or annuity described in Code sections 408(a) or (b) or a qualified defined contribution plan described in Code sections 401 (a) or 403 (a) that agrees to account separately for the amounts so transferred, including separate accounting for that portion of such distribution that is not includible in gross income.

be amended to make the following deletions and insertions, such that Part I, Subpart B, Chapter 6, Article III, Section 6-255 of the Code of Ordinances of the City of Atlanta, Georgia, Georgia Laws 1924, p. 167, shall read as follows:

Sec. 6-255. - Eligible rollover distributions.

(a) *General Rule.* The distributee of any eligible rollover distribution made under this Act, 1927 Ga. Laws, page 265, as amended, may elect, in the manner and at the time specified by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) *Definitions.*

(1) *Distributee.* For purposes of this section, a "distributee" shall include any current or former officer or employee who has a right to a benefit under this act. ~~In addition, the surviving spouse or registered domestic partner of any such current or former officer or employee shall be a distributee with respect to the interest of such surviving spouse or registered domestic partner.~~ In addition, a 'distributee' shall include the current or former officer's or employee's surviving spouse, as well as the current or former officer's or employee's current or former spouse who is the alternate payee under a qualified domestic relations order as defined in Code section 414(p). Effective January 1, 2010, a 'distributee' shall include a non-spouse beneficiary who is a designated beneficiary within the meaning of Code section 401(a)(9)(E).

(2) *Eligible Rollover Distribution.* For purposes of this section, an `eligible rollover distribution' is any distribution from the fund established under the act 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 ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the U.S. Internal Revenue Code (the `Code'); and any hardship distribution. All or a portion of a distribution shall not fail to be an eligible rollover distribution merely because the distribution includes after-tax employee contributions that are not includible in gross income, provided, however, that such amounts may only be paid to a plan that constitutes an eligible retirement plan with respect to a distribution or portion of a distribution constituting after-tax contributions, as defined below.

(3) *Eligible Retirement Plan.* For purposes of this section, an `eligible retirement plan' is an individual retirement account or annuity described in Code sections 408(a) or 408(b); a qualified trust described in Code section 401(a); an annuity plan described in Code section 403(a); an annuity contract described in Code section 403(b); and an eligible deferred compensation plan described in 457(b) that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to account separately for amounts transferred into such plan from this fund; and, effective January 1, 2008, a Roth IRA described in Code section 408A. With respect to that portion of an eligible rollover distribution that consists of after-tax contributions that are not includible in gross income, an eligible retirement plan shall include only an individual retirement account or annuity described in Code sections 408(a) or (b) or a qualified defined contribution plan described in Code sections 401 (a) or 403 (a) that agrees to account separately for the amounts so transferred, including separate accounting for that portion of such distribution that is not includible in gross income. In the case of a distribution to a non-spouse beneficiary, the term eligible retirement plan shall include only an inherited individual retirement account described in Code section 408(a) or an inherited individual retirement annuity described in Code section 408(b).

(c) *Mandatory Distributions.* Effective January 1, 2006, if with respect to any mandatory distribution in excess of $1,000 that is an eligible rollover distribution a distributee does not make an election pursuant to subsection (a) above and does not elect to receive the distribution directly, the amount of the distribution shall be transferred to an individual retirement plan as described in Code section 408(a) or 408(b) of a designated trustee or issuer, and the distributee shall be notified in writing that the distribution may be transferred to such an individual retirement plan.

Section 3: Except as otherwise provided, the provisions of Section 1 and Section 2 are effective as of the date of adoption of this legislation.

Section 4: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

A true copy,
Rhonda Dauphin Johnson
Municipal Clerk

ADOPTED by the Atlanta City Council — **DEC 06, 2010**
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403 — **DEC 15, 2010**

RCS# 709
12/06/10
2:33 PM

Atlanta City Council

REGULAR SESSION

CONSENT I EXCEPT 10-O-1919,10-O-1991,10-O-2107

ADOPT

YEAS:	14
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	1
EXCUSED:	0
ABSENT	1

Y Smith	Y Archibong	Y Moore	Y Bond
Y Hall	B Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

		12-06-10
ITEMS ADOPTED ON CONSENT	**ITEMS ADOPTED ON CONSENT**	**ITEMS ADVERSED ON CONSENT**
1. 10-O-1656	42. 10-R-2128	83. 10-R-2034
2. 10-O-1878	43. 10-R-2132	84. 10-R-2035
3. 10-O-1879	44. 10-R-2005	85. 10-R-2036
4. 10-O-1920	45. 10-R-2072	86. 10-R-2037
5. 10-O-1921	46. 10-R-2073	87. 10-R-2038
6. 10-O-1990	47.10-R-2108	88. 10-R-2039
7. 10-O-1992	48. 10-R-2119	89. 10-R-2040
8. 10-O-2095	49. 10-R-2120	90. 10-R-2041
9. 10-O-1893	50. 10-R-2121	91. 10-R-2042
10. 10-O-1894	51. 10-R-2124	92. 10-R-2043
11. 10-O-1895	52. 10-R-2011	93. 10-R-2044
12. 10-O-1965	53. 10-R-1996	94. 10-R-2045
13. 10-O-1966	54. 10-R-2000	95. 10-R-2046
14. 10-O-1967	55. 10-R-2001	96. 10-R-2047
15. 10-O-1993	56. 10-R-2002	97. 10-R-2048
16. 10-O-1995	57. 10-R-2074	98. 10-R-2049
18 10-O-2094	58. 10-R-2075	99. 10-R-2050
19. 10-O-2105	59. 10-R-2076	100. 10-R-2051
20. 10-O-2106	60. 10-R-2012	101. 10-R-2052
21. 10-O-1914	61. 10-R-2013	102. 10-R-2053
22. 10-O-1915	62. 10-R-2014	103. 10-R-2054
23. 10-O-1972	63. 10-R-2015	104. 10-R-2055
24. 10-O-1973	64. 10-R-2015	105. 10-R-2056
25. 10-O-1974	65. 10-R-2016	106. 10-R-2057
26. 10-R-1657	66. 10-R-2017	107. 10-R-2058
27. 10-R-1922	67. 10-R-2018	108. 10-R-2059
28. 10-R-1924	68. 10-R-2019	109. 10-R-2060
29. 10-R-1925	69. 10-R-2020	110. 10-R-2061
30. 10-R-1926	70. 10-R-2021	111. 10-R-2062
31. 10-R-2008	71. 10-R-2022	112. 10-R-2063
32. 10-R-2109	72. 10-R-2023	113. 10-R-2064
33. 10-R-2084	73. 10-R-2024	114. 10-R-2065
34. 10-R-2086	74. 10-R-2025	115. 10-R-2066
35. 10-R-2087	75. 10-R-2026	116. 10-R-2067
36. 10-R-2088	76. 10-R-2027	117. 10-R-2068
37. 10-R-2089	77. 10-R-2029	118. 10-R-2069
38. 10-R-2090	78. 10-R-2030	119. 10-R-2070
39. 10-R-2113	79. 10-R-2031	
40. 10-R-2114	80. 10-R-2032	
41. 10-R-2115	81. 10-R-2033	
	82. 10-R-2129	