Select Committee on Pensions

Final Report

August 13, 2009

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Select Committee on Pensions

Final Report

Introduction

The City of Atlanta has three defined benefit pension plans (Fire, Police, and General Employees), two of which were established in the 1920's, when the average male life expectancy was 48 years, *but retirement eligibility didn't begin until age 65.* Currently, by contrast, some employees will experience longer retirements than careers—placing an increasing strain on pension plan funding that falls mainly upon the General Fund and thus diminishes Atlanta's ability to adequately fund municipal services and programs.

The two former Chief Financial Officers (CFO) of the Franklin Administration have expressed similar concerns about Atlanta's pension plans. Near or immediately after their departures, both wrote memos to the Chair of Council's Finance and Executive Committee sharing their views. Mr. Rick Anderson, who had retired after a long career in Atlanta's Department of Finance and then returned as Mayor Shirley Franklin's CFO from 2002 through fall 2005, pointed out the negative effects of several pension plan modifications that resulted in "haves and have-nots" after eighty years of largely similar benefit terms for all City employees. He recommended strongly that Atlanta "establish a policy that determines the City's targeted percentage of an employee's retirement income" as such a policy would "guide decisions over time." He also strongly supported significant improvements in the City's Defined Contribution Plan, adopted in 2001. Mr. Anderson's successor, Ms. Janice Davis, who served as CFO from 2005 through mid-2008, also warned of a "benefits burden that cannot be maintained without a significant negative impact on the City's ability to provide services." Her recommendations included, as had Mr. Anderson's, support for the 2005 recommendations of the Pension Technical Advisory Committee (PTAC), specifically the creation of a new program combining elements of defined benefit and defined contribution plans with equal or similar terms for all employees . The memoranda from Mr. Anderson and Ms. Davis are included in their entirety under **Appendix 1**.

Enabling Legislation

The Atlanta City Council's Select Committee on Pensions was formed pursuant to Resolution 08-R-1696 **(Appendix 2),** a Resolution co-sponsored by and adopted with the support of all members attending the August 18, 2008 meeting of the Atlanta City Council. The legislation set forth four tasks:

1. Review the condition of Atlanta's pension plans.

2. Determine the impact to those plans as well as to the General Fund of certain changes to the plans.
3. Revisit the findings of the PTAC.
4. Consider such actions as will improve the sustainability of the plans as well as the General Fund.

Select Committee Membership

A Select Committee is defined as "a group of members of a legislative body chosen to study and report on a particular matter." The Atlanta City Council's Select Committee on Pensions was formed in accordance with Article II, Division 1, Section 2-137 of the Code of Ordinances.

Pursuant to the enabling resolution, the Chairs of the Committee on Council and the Finance and Executive Committee determined the select committee's membership. Members were chosen based upon a pronounced interest in the subject matter, current or prior service on the Finance Committee, and ability to represent a wide spectrum of Atlanta's viewpoints and circumstances. The members then determined the Committee leadership. This process resulted in the following committee composition:

The Honorable Felicia Moore, Co-Chair
The Honorable Howard Shook, Co-Chair
The Honorable Anne Fauver
The Honorable Clair Muller
The Honorable C.T. Martin

Select Committee Meetings

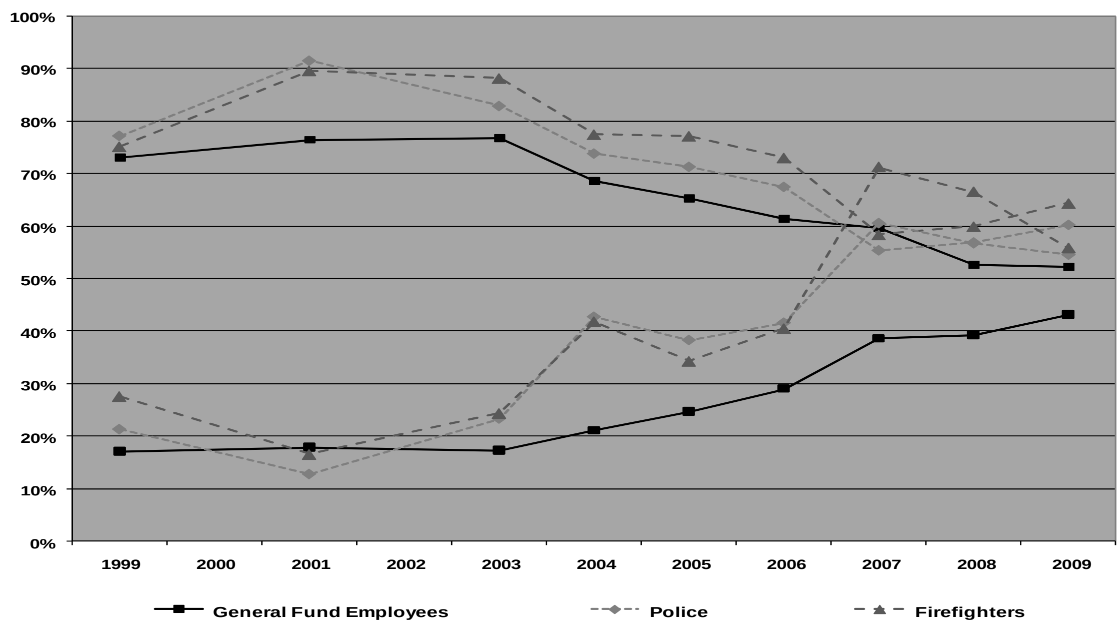
The committee met six times on the first and third Wednesdays of September, October and November, 2008. The inaugural meeting occurred on September 3, and the final meeting on November 19. The meetings, which took place in various Council conference rooms and generally lasted two hours each, were conducted in compliance with Article II, Division 1, Section 2-138 of the Code of Ordinances.

Purpose and Background

The Select Committee on Pensions focused on Atlanta's three traditional pension plans and the associated labor discontent and periodic change of the last decade. Some of the changes mitigated an inequity for participants in one of the plans while increasing the sense of disparity for the others. After the adoption of several major plan modifications in 2001, increased concerns prompted several years' of discussion at the City Council level. In the spring of 2004 the PTAC, a panel appointed by then-Chief Financial Officer Rick Anderson, began reviewing the existing plans in preparation for the final report they issued early in 2005. That report, and the unresolved conditions it studied, fostered and focused increasingly significant Council discussion and debate. By the fall of 2005 the activities had distilled into the introduction and adoption of a variety of ordinances supported by the Franklin Administration, the Department of Finance, and the City Council. Although the cost of maintaining these and previously-approved changes were deemed affordable by the Department of Finance, the unfunded liability and resulting pressure on the General Fund rapidly escalated beyond the original projections. Atlanta's FY08 General Fund Budget and related documents show that pension costs increased from $36 million in 2002 to $118 million in 2008, comprising 20% of the FY08 General Fund Budget. Escalating amortization payments combined with poor fund investment returns will, absent any change, continue to significantly increase pressure on the General Fund in the near future.

Exhibit 1, below, depicts two increasingly problematic trends since 1999, and particularly in the wake of the 2005 benefits enhancements. Originally developed by the Internal Auditor as part of an audit of the FY08 Budget, the graph reveals the decreasing percentage by which each of Atlanta's three plans is funded, and the increasing percentage of payroll consumed by pensions.

Exhibit 1: Percent of Liability Funded and Percent of Payroll Contributed by City General Employees, Police, and Firefighters Pension Funds 1999 - 2009



Source: Review of the 2008 General Fund Budget, City Auditor's Office, March 2008, p. 20.

The graph shows the City's required payroll contributions increasing from 1999 through 2009, while the percentage of funded pension obligations has decreased. Over the last ten years, the City's pension contribution for fire fighters has doubled, while for police officers and general employees, it has more than doubled. During the same period, the percentage of funded pension obligations for general employees has decreased from 73% to 52%. For police officers, the percentage of funded pension obligations has decreased from 77% to 60%, while for fire fighters, it has decreased from 75% to 64%. By comparison, the average funding level for public pensions in Georgia in 2007 was 73%, according to an October 2008 report by one of Atlanta's pension actuaries, The Segal Group.

Exhibit 2: Unfunded Liability and Annual Required Contribution (ARC) General Employees, Police, and Firefighters Pension Funds Fiscal Year 2009

	Unfunded Liability	Plan Participants	ARC
Police	$ 313M	3,083	$ 44.8M.
Firefighters	$ 234M	1,909	$ 28.8M.
General Employees	$ 634M	3,511	$ 62.4M
Total	$1,181M	8,503	$136M

Source: Actuarial reports.

For FY09, the City's actuaries reported unfunded pension liability for the three defined benefit (DB) plans of approximately $1.2 billion, and annual required contributions (ARC) of $136 million. On the current amortization schedule, the unfunded obligations must be paid off by 2023. Other things being equal, lengthening the amortization period for the unfunded liability would reduce the annual payments but increase the total amount of payments over time.

A Brief History of Atlanta's Pension Plans Prior to 2001

Like those of most state and local governments, Atlanta's traditional employee pension plans were established as defined benefit (DB) plans. In DB plans, employees are guaranteed a specific benefit amount upon retirement, generally based on a combination of the individual's age, years of service, and salary. Retirement provisions are defined in the plan, and the employer is obligated to provide them when the specified conditions are met, usually through a combination of employer and employee contributions and the investment of these funds.

General Employees

The defined benefit pension plan for general employees was created by the Georgia General Assembly in 1927. The authority to modify the Plan was transferred to Atlanta as part of a new Charter in 1973.

The core of the original **'27 Plan** included retirement eligibility at age 65 with a benefit formula of one-half of the average monthly salary not to exceed $150 per month. The **'55 Plan** allowed an employee with 26 years of service to collect an additional $5/month for each year of service beyond 25 and, with the exception of elected officials, compelled retirement at age 70. The **'59 Plan** allowed employees with 30 years of service to collect another $5/month for each year. Vesting rights after 20 years were added in the **'62 Plan**, and a benefit formula was adopted featuring the 2% multiplier (2% of average monthly salary, based on the highest three consecutive years, times number of years of service). The **’78 Plan** lowered the retirement age from 65 to 60 and reduced the vesting threshold from 20 years of service to 15.

The General Employees plan also includes pensioners and beneficiaries of the Atlanta Public School’s Board of Education (APS). According to the Department of Finance, although most teachers transferred years ago to a State-administered pension plan, approximately 2,400 APS retirees, beneficiaries, and disability recipients remain in the City plan and account for 80% of the total liability of the fund. There are more retirees and beneficiaries drawing money from the fund in benefits than active APS workers contributing to the fund. These benefits are recorded by a separate actuarial valuation report; General Employee fund figures shown in this report reflect City of Atlanta data only.

Fire Fighters

The defined benefit pension plan for fire fighters was created by the Georgia General Assembly in 1924. The authority to modify the Plan was transferred to Atlanta in 1973 as part of a new Charter. The Plan has been amended numerous times by the State and City, with significant changes in ’35, ’55, ’59, ’61, ’64, ’78, and ‘86. For most of that period changes to the Plan appear to mirror changes in the same years to the General Employees and Police Plans.

In addition to Atlanta’s plan, fire fighters can participate in the Georgia Firefighters Pension Fund. Sponsored by the Georgia State Firefighters Association, members can pay $15/mo for benefits that begin to be vested at 15 years. Full vesting is achieved at 25 years, with the maximum payment approximately $880/mo. Survivor benefits are available.

Police

The defined benefit pension plan for police officers was created by the Georgia General Assembly in 1933 and, as with the Fire and General Employees’ plans, the authority to modify the Plan was transferred to Atlanta in 1973 as part of a new Charter. The Plan was amended in the same years as the Fire plan, evidently for the same reasons. The overall terms of the plan aligned with those of the Fire and General Employee plans.

Atlanta’s police are also eligible to participate in the Peace Officers’ Annuity. In this plan, offered by the State, funding is generated by fines collected on criminal offenses plus member contributions of $20/mo. Benefits vary according to a vesting schedule that begins at 10 years and completes at 30 years of service and age 55.

Pension Actions by the Administration and Council in 2001

On February 13, 2001 the Mayor signed into law Ordinance 01-O-0064 establishing a defined contribution (DC) pension plan for General Employees. The plan’s intent was to lower Atlanta’s contribution requirements, decrease City exposure to unfunded actuarial accrued liability, increase the portability of benefits, and equalize the funding burden between employee and employer by requiring matching contributions of 6%. Similar to a 401(k) plan in the private sector, employees select investment options provided by the employer. The retirement income the employee receives from a DC plan depends upon the amount of contributions and the performance of the investments chosen. After July 1, 2001, the General Employees defined benefit plan was closed to new hires. Current DB plan participants were given a one-time window to enter the DC plan if they chose. The legislation establishing the DC plans requires an oversight committee comprising the Mayor, CFO, and Finance Executive Committee chair. The Pension Select Committee has determined that contrary to the enabling legislation, the governance structure has not been established.

The adoption of the defined contribution plan further exacerbated Labor's concerns about Atlanta's pension plans, which had been escalating over an extended period. In July of 2001 the Atlanta City Council adopted and the Mayor approved legislation introduced by Councilman Michael Bond creating "a Task Force for the purpose of reviewing the city's pension plans and developing recommendations for the overall improvements of such plans." Slots on this panel included the Chief Financial Officer, Chief Operating Officer, and Commissioner of the Department of Human Resources, as well as representatives of the City Council, Mayor, and Council President. A majority of the seats were set aside for members of the pension boards and leaders of Atlanta's employee unions. The panel's Chair and Vice-Chair were union officials.

The Pension Task Force met weekly from August 29 through October 26 of 2001. Their resulting report emphasized the need to rectify several significant disadvantages in comparison to the plans offered the employees of Cobb, Fulton, and DeKalb Counties, the jurisdictions generally comprising the marketplace for most City/County employment.

The task force identified four key disparities between Atlanta's pension plans and those of other area jurisdictions, shown in **Exhibit 3** below.

Exhibit 3: Pension Plan Comparisons for General Employees City of Atlanta and Cobb, DeKalb, and Fulton Counties

<u>Pension multiplier:</u>

DeKalb Co.	2.75%
Cobb Co.	2.5%
Fulton Co.	2.5%
Atlanta	2%

<u>Employee contribution percentage:</u>

DeKalb Co	5%
Cobb Co.	4%
Fulton Co.	6%
Atlanta	7%

<u>Years to vest:</u>

Cobb Co.	7
Fulton Co.	10
DeKalb Co.	10
Atlanta	15

<u>Retirement eligibility:</u>

Cobb Co.	80yrs age + service
Fulton Co.	80yrs age + service
DeKalb Co.	30yrs service
Atlanta	Age 60

Source: Pension Task Force Report, 2001

The Pension Task Force recommended a four-year series of changes (see Approved Pension Plan by Pension Task Force, **Appendix 3**) designed to align Atlanta's plans with those offered by the surrounding counties. They also recommended the abolishment of the defined contribution plan, citing such flaws as: no access to Social Security; inability to choose another plan; the exclusion of Fire and Police employees; and a low City match. Their report declared that "fairness and equity" dictated that "pension plans should be the same for all city employees."

A significant change that proved to be the first link in a series of pension enhancements occurred when, in an effort to stem high attrition rates, legislation increasing the multiplier for Fire employees from 2% to 2.5% and for Police for ALL years of service from 2% to 3% was approved by the Administration and Council.

A key rationale for increasing the Police multiplier was the desire to lower the attrition rate. A ten-year review of attrition statistics, however, suggests a modest impact on Police attrition: the rate in the year preceding the increase was 5.84% compared to 4.05% for the year following; the three-year average before and after is, respectively, 5.91% vs. 4.64%. A 2008 report by the City Auditor's Office concluded that most of the non-retirement attrition among police officers occurs in their first few years of employment. It is not clear what role retirement benefits play in employment decisions early in one's career.

According to the Police plan's actuary report, the multiplier enhancement drove an increase in the City's required contribution from 12.77% of sworn officer's payroll to 23.33%. The unfunded liability increased from $35.4M in 2000 to $92.5M in 2002. For Fire, the enhancement required contributions to rise from 16.5% to 24.3% of payroll, with the unfunded liability increasing from $33.3M to $43.6M during the same period.

Copies of the legislation creating the defined contribution plan and modifying the existing defined benefit plans can be found in **Appendix 4**.

Pension Actions by the Administration and Council in 2005

The Select Committee on Pensions focused on over seventy hours of audio/video recordings of pertinent Council work sessions, Finance/Executive Committee meetings, and full Council meetings spanning 2003 through 2005; the Committee staff notes and official minutes of those meetings; reports issued by pension task forces in 2001 and 2005, and documents produced by the Department of Finance.

2005 Actions Rooted in Effects of 2001 Changes

Actions taken in 2005 by the Franklin Administration and the Atlanta City Council represented a culmination of deliberations reaching back to 2001, when a previous mayor and Council raised the multiplier for all years of service for members of the Police pension plan from 2% to 3%, Fire from 2% to 2.5% (moving forward only), and closed the General Employee defined benefit plan in favor of a new defined contribution plan that failed to address many long-standing labor concerns, and, to the extent each plan now had a different multiplier formula, created new issues. By January of 2003 Councilman CT Martin had introduced legislation seeking to raise the Fire multiplier as had been done for Police. Although this legislation was not acted upon at the time, it was the first of many policy proposals that would be discussed and debated by the Franklin Administration and the Council through the fall of 2005.

Pension Technical Advisory Committee

Some of the 2005 deliberations and activities were shaped by the findings and recommendations of the Pension Technical Advisory Committee (PTAC). This six-member panel of public and private sector pension authorities, convened by then-CFO Rick Anderson, was charged with evaluating Atlanta's various pension plans and making recommendations as necessary to ensure that the plans were competitive and sustainable. Working with a 90-day deadline, the PTAC first met April 21 '04 and last met Aug. 11 '04. During this period they interacted with employees, actuaries, union representatives, Council Members, and various staffers in the Mayor's Office, Department of Finance, and Department of Human Resources. The executive summary of their final report is attached (**Appendix 5)**. City Council's Finance & Executive Committee conducted a comprehensive series of hearings in the summer and fall of 2004 (during which Mr. Anderson retired as CFO and was replaced by Ms. Janice Davis) devoted to understanding the report's findings and nine recommendations, as summarized here:

1. Adopt a two-year process for instituting changes with a financial impact to the City's pension plans.

2. Set a policy that determines a targeted percent of an employee's retirement income.

3. Review contribution levels of all employee groups, and give high priority to addressing pension-related issues for General Employees hired after July 1, 2001.

4. Consider other methods for funding the unfunded liability, with such an approach being a stand-alone decision and not necessarily a means to fund new benefits.

5. Review pension board governance so as to identify best practices.

6. Increase employee education with respect to understanding plan terms and the importance of personal savings.

7. Reduce the vesting schedule on its defined benefit plans.

8. Examine the City salary structure and increase salaries where appropriate as part of a "total compensation approach" to establishing both salaries and benefit programs.

9. Avoid consideration of 'Drop' plans.

Comparative Pension Plan Benefits

Atlanta's employee unions had long advocated for changes to the plans that eliminated or mitigated disadvantages compared to the plans offered by the three largest competitors for governmental labor, Cobb, DeKalb, and Fulton Counties. Some key pension metrics compared as follows:

Exhibit 4: Pension Plan Comparisons, All Defined Benefit Plans

				Multiplier		
	Soc. Sec.?	Vesting	Emp. Cont. %	General	Police	Fire
City of Atlanta	No	15yrs	7%	2%	3%	3% post 3/01
Cobb County	Yes	7yrs	4.25%	2.5%	2.5%	2.5%
DeKalb County	Yes	3yrs	0.5%	2.75%	2.75%	2.75%
Fulton County	Yes	10/Rule79	6%	2.25%	2.25%	2.25%

Source: Pension Task Force Report, 2001

These external and internal benefit disparities were further accentuated by findings of low pay for Police (ranked 156th out of 200 cities studied in *The Linder Report*), complaints about low pay and working conditions in Fire, and three consecutive years of low or no raises or cost of living adjustments.

2005 Pension Plan Amendments

Beginning with the first Finance & Executive Committee meeting of 2005, discussion revolved around increasingly detailed pension plan 'reform' recommendations supported by Atlanta's employee unions. The Committee, relying on the CFO and pension actuaries, evaluated various plan modifications, re-amortization options, and costs. By July, Committee discussion had focused on a series of specific legislative proposals. Councilman C.T. Martin had introduced seven pieces of legislation that variously increased pension multipliers for Fire and General Employee plan participants, shortened the vesting period, lowered the retirement age, and eliminated the 'age penalty.' The Franklin Administration had introduced Ordinance 05-O-1232, which would become the main legislative vehicle for change. These ordinances, which can be found in their entirety under **Appendix 6**, are summarized here:

Ordinance 05-O-1232

The legislation contained four basic benefit enhancements:

1. The vesting period was reduced from fifteen years to ten;
2. The Fire multiplier increased from 2% to 2.5% for service prior to '01 and to 3% for service thereafter;
3. For General Employees, the multiplier moving forward increased from 2% to 2.5%;
4. Certain General Employees were allowed to move from the recently created defined contribution plan back into the defined benefit plan, which had been closed in 2001 to new hires.

According to CFO Janice Davis, the increased costs would be offset largely by savings generated by re-amortizing the unfunded liability of the three plans from the remaining 14 years to 20, as well as supplemental General Fund support, funding for which had already been set aside.

After an amendment raising Fire's multiplier to 3% for all years of service failed in Committee 1-3-1, the ordinance passed unanimously and went to the Council with the understanding that because the Police pension board had yet to meet, the possibility existed that their 10-year vesting enhancement might have to be removed and adopted in subsequent legislation.

At the meeting of the full Council, Mr. Martin again—successfully this time—offered his amendment raising the retroactive multiplier for Fire to 3%. The ordinance was then tabled so as to allow for the required transmission of the legislation to each of the pension boards for review.

At the subsequent (9/6/05) full Council meeting, Council unanimously rescinded the above-referenced amendment on the grounds that the Fire pension board hadn't met yet as required.

Ordinance 05-O-1232 was approved 15-0 and signed into law by Mayor Franklin on September 12, 2005.

Ordinance 04-O-2106

At the 8/15/05 full Council meeting, Mr. Martin brought forward Ordinance 04-O-2106, which was being Held in the Finance Committee, and offered a unanimously-supported amendment raising Fire's multiplier to 3% for all years of service, but installing a cap of 80%. This was tabled to allow for review by Fire's pension board. At the following (9/6/05) meeting, Mr. Martin brought the ordinance from the table and, the Fire pension board having approved it, moved its adoption. The legislation was adopted 15-0 and signed into law by Mayor Franklin on September 12, 2005.

Ordinance 05-O-1199

At the 9/6/05 meeting of the full Council, Mr. Martin brought forward from the Finance Committee Ordinance 05-O-1199, legislation effectively eliminating the 'age penalty' by tying retirement to thirty years of service rather than a set age. Upon learning that, unlike the Fire and General Employee pension boards, the Police board had declined to meet in consideration of the change, the police were removed from the legislation, which passed unanimously and was signed into law by Mayor Franklin on September 12, 2005.

Ordinance 05-O-1731

Ordinance 05-O-1731, introduced at the 9/6/05 full council meeting, established for Police the same "30-and-out" retirement threshold adopted at the previous Council for Fire and General Employee plan participants. At the 9/14/05 meeting of the Finance & Executive Committee, Chairperson Starnes, citing the police pension board's refusal to take up the "30-and-out" legislation because of a preference for "27-and-out", moved to *file* (dispose of) 05-O-1731. The vote was unanimous. At the subsequent (9/19/05) meeting of the full Council, Mr. Mitchell made a substitute motion to *Refer* (send back) *to Committee*, which prevailed 8-5. The Police pension board ultimately approved the proposal, and the legislation was adopted 14-0 by Council at its 10/17/05 meeting and signed into law by Mayor Franklin on October 25, 2005.

Ordinance 05-O-1971
This ordinance, a 'Personal Paper' by Debi Starnes giving General Employees "30-and-out", was passed as part of the Consent Agenda at the 11/7/05 full Council meeting and signed into law by Mayor Franklin on November 14, 2005.

Exhibit 5, below, developed by Atlanta's CFO in the immediate wake of these benefit modifications, summarizes the resulting plan features. It includes the changes made in 2001 as well as 2005

Exhibit 5: Defined Benefit Plan Provisions General Employees, Firefighters, and Police Pre-2001, 2001, and 2005

	General Employees	Firefighters	Police Officers
Pre-2001	Normal retirement age – 60 15-year vesting 2% multiplier	Normal retirement age – 55 15-year vesting 2% multiplier	Normal retirement age – 55 15-year vesting 2% multiplier
2001	Normal retirement age – 60 15-year vesting 2% multiplier No benefit cap	Normal retirement age – 55 15-year vesting 3% multiplier for service after March, 2001 2% multiplier for prior years' service No benefit cap	Normal retirement age – 55 15-year vesting 3% multiplier Benefit cap 80%
2005	Normal retirement age – 60 10-year vesting 30 years and out 2.5% multiplier Benefit cap 80% 6 years added to amortization period	Normal retirement age – 55 10-year vesting 30 years and out 3% multiplier Benefit cap 80% 6 years added to amortization period	Normal retirement age – 55 10-year vesting 3% multiplier Benefit cap 80% 6 years added to amortization period

Source: Former CFO Davis.

Appendix 7 developed by Atlanta's Department of Human Resources, shows the City's various current pension terms in greater detail, and compares them with those of Cobb, Fulton, and DeKalb counties, the jurisdictions generally comprising the local marketplace for most City/County employment.

Aftermath of 2005 Changes and Current Status

2005 Changes: Short-Term Funding Consequences

The General Employee plan's unfunded liability increased from $462.5M in 2005 to $633.8M in 2006. The Fire Fighters plan's unfunded liability jumped during that period from $120.1M to $233.4M, with the percentage funded dropping from 73% to 59.9%. The Police plan's unfunded liability increased from $214.4M to $352.9M and the percentage funded dropped from 67.5% to 56.8%.

It appears that, as was the case with the pension enhancements of 2001, those awarded in 2005 also had arguably no impact on Police or Fire attrition rates, a major driver in approving large and retroactive multiplier increases. For Police, the attrition rate actually *increased* in the following year (from 4.06% to 5.59%), with a three-year before and after comparison of, respectively, 4.64% vs. 5.05%. Fire's three year 'before-and-after' attrition rate also showed an increase; .34 compared to .51. For more information about the Police attrition rates, see **Appendix 8**.

Atlanta's municipal activities and the employees who perform them are segmented within various city funds, with the cost of supporting the three pension plans being distributed accordingly. In 2005, over three-fifths of pension costs are absorbed by the City's general fund, which funds a substantial majority of Police and Fire pension costs in addition to a portion of the general employee plan costs.

Exhibit 6: Percent of City Pension Fund Costs by Fund All Pension Plans
Fiscal Year 2005

General Fund	62.3%
Water/Wastewater Fund	15.2%
Aviation Fund	12.0%
Internal Service Fund	3.5%
Solid Waste Fund	2.8%
Other	4.2%

Source: Department of Finance

Pension Plan Governance and Support

Each of Atlanta's three defined benefit plans is governed by a board of trustees. Each board includes three elected pension plan members, a member of the City Council, the Commissioner of the Department of Human Resources, and a representative of the Department of Finance. Support including the activities of Actuaries, Administrators, and Investment Managers is procured via contract.

Financial Planning Assistance for Employees

Public and private employers typically encourage—and many actively promote—the importance of personal savings as a way for employees to attain approximately one-third of the resources needed to provide for retirement. The *Pension Select Committee* queried the Department of Human Resources (DHR) about opportunities available to City of Atlanta employees. DHR cited these five resources:

- DHR has partnered with the Atlanta Regional Commission to conduct a quarterly session on how to plan for retirement. It is entitled "Mapping Your Future Your Way" and addresses issues pertaining to health, housing, finance, relationships, and leisure work pursuits.
- The Atlanta City Employees Credit Union sponsors financial management workshops at least quarterly at various city and county worksites. These activities are often done with Consumer Credit Counseling.
- Employees who elect to participate in the City's Deferred Compensation Program (457b) are provided financial assistance by representatives from ING, PEBSCO, and ICMA.
- DHR has sponsored monthly seminars in one or two of the following areas when funding was available: *Wills and Estate Planning*, *Retirement Planning*, *Understanding Your Credit Report*, *First-Time Home Buying*, *Financial Budgeting*, and *Taking Control of Your Life*.
- Employees in the Defined Contribution Plan should have access to information or consultant services to assist asset allocation.

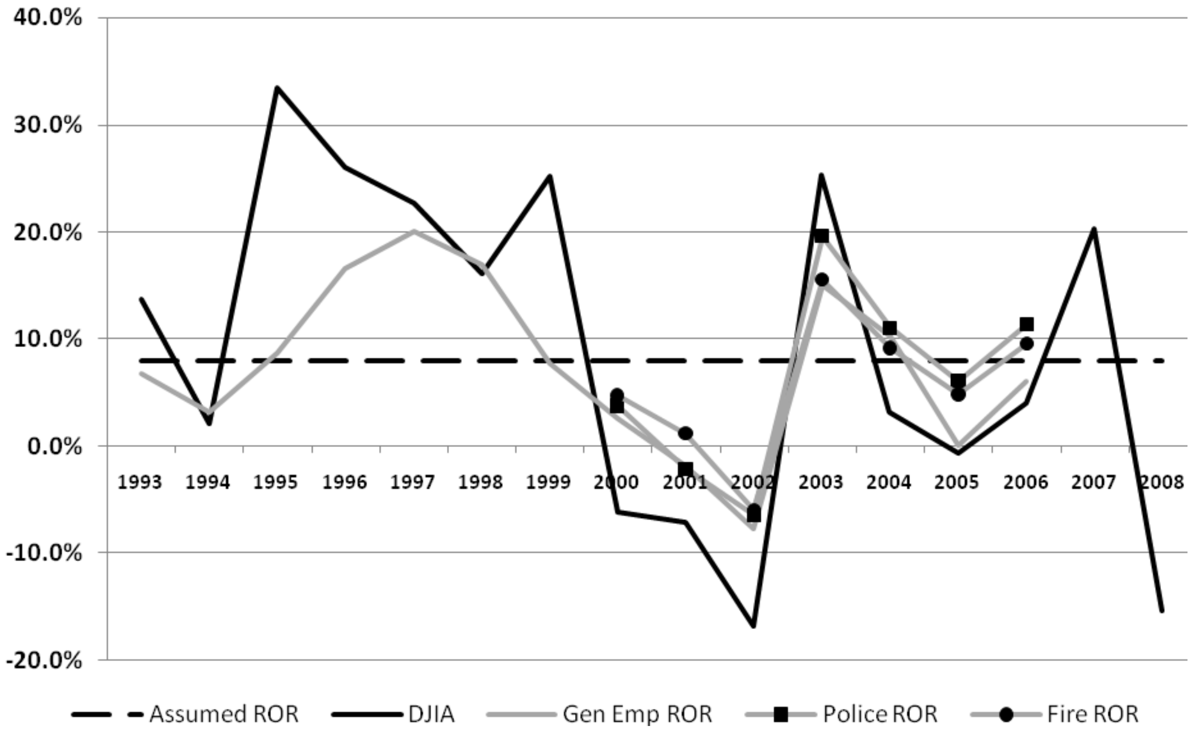
Atlanta's Pension Fund Investment Performance

The performance of the funds invested by a defined benefit plan can significantly impact its unfunded liability, and thus the annual required contribution (ARC) made by the employer. The *Select Committee on Pensions* asked Atlanta's Internal Audit Committee to independently review Atlanta's investment results. It is important to note that, in order to avoid the potentially disruptive impact of particularly steep market swings that can occur year-to-year, for actuarial purposes a 'smoothing' is applied by considering returns over the prior five years rather than simply the most recent year.

The City Auditor researched the last 15 full years of the Dow Jones Industrial Average, and the rate-of-return (in terms of both points & percentage) for each of Atlanta's three funds as measured against the Dow as well as the rate assumed by the plan actuary. Data for the rate of return for Police and Fire investments is limited to the years 2000-2007, but a 15-year look at the General Employees market results attributes, according to the plan actuary, approximately "*half of the increase in the City's required contributions since 2002 to investment performance*."

Exhibit 7 below shows the annual rates of return for the City's 3 pension fund investments compared to the Dow-Jones Industrial Average since 1993. The Dow has averaged 9.1% over this period, above the long-term actuarial assumption of about 8%. Pension fund rates of return have roughly followed the pattern of the Dow. The General Employees fund has been less volatile, not achieving the growth of the market index at its peaks but not reaching its low points either. For example, from 1993 to 1999, the Dow averaged 19.9% annual growth while the General Employees fund averaged 11.5%. From 2000 to 2006, the Dow averaged only 0.3% while the General Employees fund averaged 3.5%. From 1993 to 2006, the General Employees fund averaged 7.5%, slightly below its actuarial assumption. The public safety funds have outperformed the General Employees fund since 2000, the only period for which their investment returns were available.

Exhibit 7: **City of Atlanta Pension Fund Investment Performance Compared to Market Index, 1993 - 2008**



Source: http://www.djindexes.com and annual actuarial reports for General Employees, Police, and Firefighters' pension funds. The Dow Jones averages are calculated for periods to match the City's fiscal years, which are the bases for the annual actuarial reports.

Recent Market Conditions

During just the period spanning the Select Committee's activity (September through November of 2008), the world's stock markets experienced unprecedented volatility including several of the largest daily and monthly losses in the Dow's history, leading to a loss of 3,228.93 points, a decline of 28.38%. According to the Wilshire 5000 Index, market capitalization declined by approximately $10 trillion since nominal highs in 2007. For the year, the DOW lost 33.8% of its value—the worst year since 1931.

Public and private pension funds have suffered accordingly. As reported by the Associated Press, the Pension Guarantee Corp, the federal agency that protects the pensions of nearly 44 million American workers and retirees in 30,000 private single-employer and multiemployer defined benefit pension plans, reported to a Congressional committee that it will lose between six and seven percent of its portfolio's value—nearly five billion dollars—in their recently-concluded fiscal year. The Boston Globe reported that Boeing Co. and Raytheon Co. estimated a 20% pension fund loss, and Lockheed Martin Corp. 25%. One analyst predicted that the 100 largest pension plans would collectively lose $140 billion.

State and local pension funds, which comprise 2,700 funds and manage $1.4 trillion on behalf of 21 million employees, have also been adversely impacted. The Financial Times reported that public pension funds are facing their worst year of losses in history. They noted that in the nine months to the end of September, the average state pension fund lost 14.8%, nearly double the previous high for an annual state loss. According to the Atlanta Journal-Constitution, Georgia's two largest state pension programs—the Teacher Retirement System and the Employee's Retirement System—lost more than $11 billion, or 17%., of combined value.

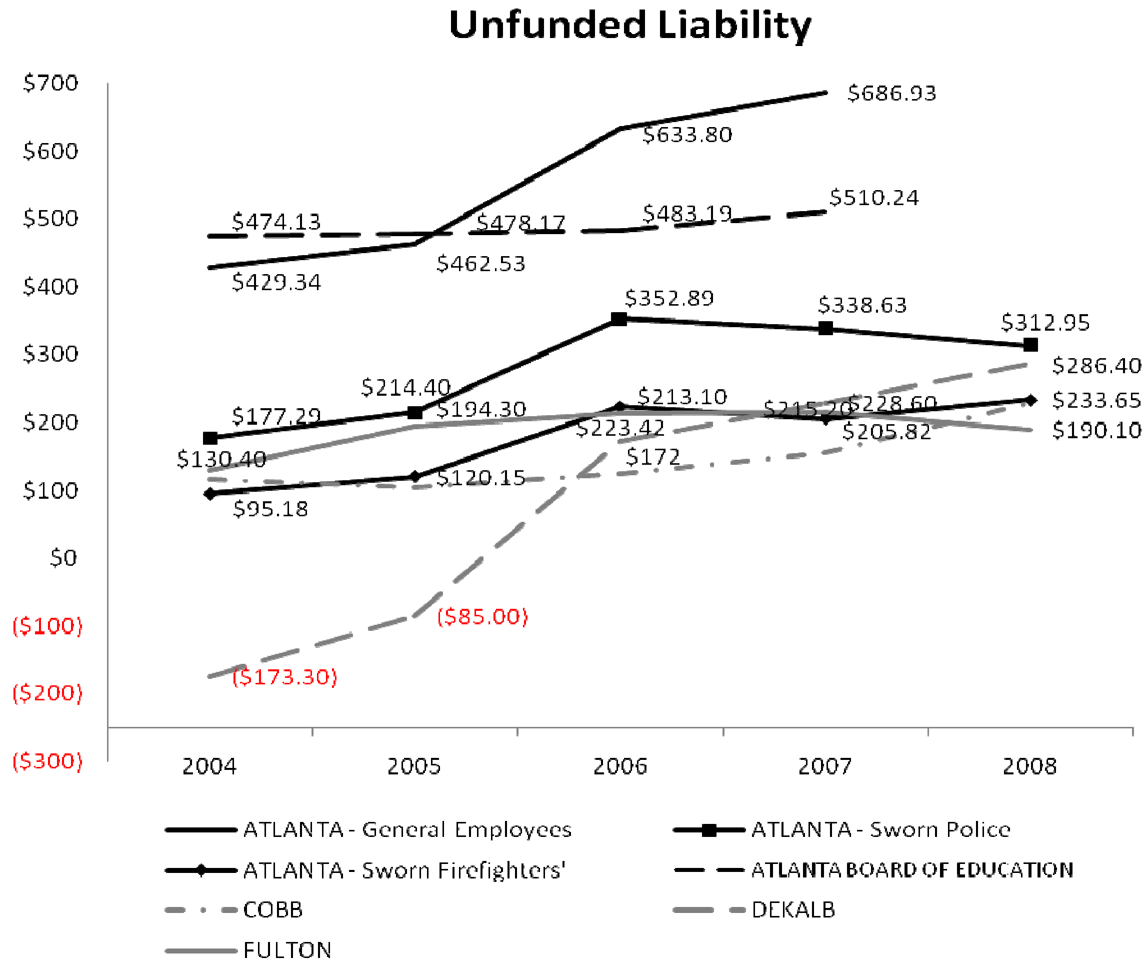
These losses prompted an organized private-sector lobbying effort aimed at passing HR 7237, a bill providing for relief from the Pension Protection Act of 2006, which required companies to close any funding shortfalls over the next seven years. The bi-partisan legislation unanimously passed the House and Senate and was signed into Law by President Bush Dec. 23. In the public sector, the mayors of Atlanta, Philadelphia and Phoenix addressed a joint November 13 letter to Treasury Secretary Paulson proposing the creation of "a lending facility whereby local governments would borrow the current unfunded accrued actuarial liability for their systems from the U.S. government and repay that debt at the rate of the 30-year Treasury plus 100 basis points." (As of the drafting of this report no decisions had been made on the establishment of any federal relief programs for public pensions.)

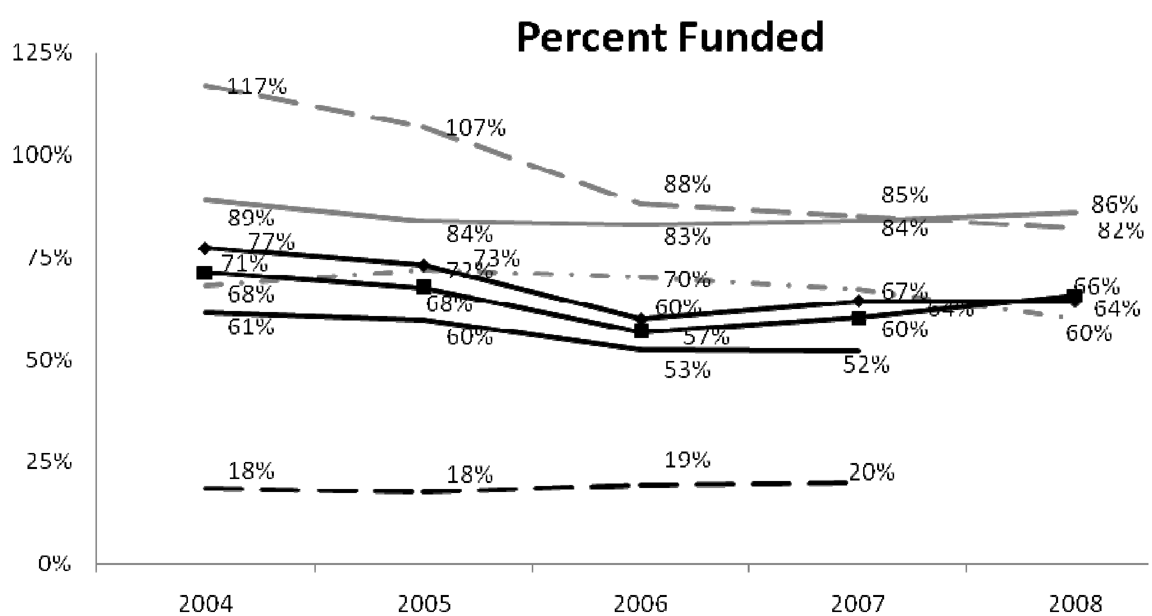
Performance Comparison with Other Local Governments

The Department of Human Resources was asked to provide data comparing the funding percentage and unfunded liability of Atlanta's three Defined Benefit plans with those of Cobb, DeKalb, and Fulton Counties during the years 2003 through 2007. (See **Exhibit 8** on the following page.)

Overall, the trends were fairly similar: the unfunded liabilities increased significantly (by an average of 89%), while the funded percentage declined (by an average of 14%). Looking more closely at the trend lines in both graphs indicating Atlanta's three funds (Police, Fire, and General Employees), however, one can detect the impact of the various plan enhancements—particularly the multiplier increases and especially Fire's, which was retroactive—adopted in 2005.

Exhibit 8: Unfunded Liability and Percent Funded, City of Atlanta and Metro Area County Pension Funds, 2004 – 2008





Legal Review of 2001 and 2005 Pension Plan Modifications

During the Select Committee's review of the changes made to Atlanta's three defined benefit plans in 2001 and 2005, the question was raised as to whether any of the modifications may have violated state law. Although a review of the available audio/video record of Council meetings, Finance & Executive meetings and work sessions devoted to debating the '01 and '05 pension plan modifications revealed no indications of the Department of Law questioning the legality of any of the proposed changes, Law was asked by the *Select Committee* to assess the compliance of the changes with the appropriate controlling language enshrined in the Georgia Constitution. Of particular interest was how the acts increasing the multipliers for Police and Fire to cover *all* years of service comported with Article III, Section VI, Paragraph VI (2), which holds that "the General Assembly shall not grant or authorize extra compensation to any public officer, agent, or contractor after the service has been rendered or the contract entered into." The Department of Law has offered the case of Malcom v. Newton County (2000), as strongly suggesting the legality of Atlanta's retroactive multiplier increases. In this case a former sheriff, whose pension plan had been enhanced during his final month of service, sued Newton County for wrongful termination of his plan. The Court of Appeals held that: "(1) former sheriff was eligible participant in amended pension plan; (2) county's action in rescinding amended plan and terminating former sheriff's right to benefits violated constitutional guarantee against impairment of contracts; and (3) county's funding of former sheriff's inclusion in amended plan did not create debt of temporary loan in violation of State Constitution."

The Select Committee notes that California's third-largest county government has filed a lawsuit alleging that previously adopted retroactive pension benefits for sheriff's deputies violates similar language prohibiting gratuities in that state's constitution. Filed in February, County of Orange v. Board of Retirement of the Orange County Employees Retirement System will be watched closely by many stakeholders.

Atlanta's Department of Law brought one potential issue to light. An October 22 memo opines that two ordinances approved in 2005 (03-O-0313 and 03-O-0314), which retroactively increased disability benefits for General and Fire pension participants, *would* be deemed unconstitutional *if* awarded to anyone already receiving that benefit at the prior level.

Conclusions of the *Select Committee on Pensions:*

Findings:

1. Pension changes in 2001 and 2005 generally brought Atlanta's plans into line with the plans offered by the local county governments with whom it competes for a majority of employees.

2. Multiplier changes widened existing differences in Atlanta's three Defined Benefit plans that had historically been fairly similar.

3. The 2005 changes were deemed affordable by the Department of Finance and were approved by the City Council and signed by the Mayor.

4. A review of Atlanta's 2001 and 2005 pension changes by the Department of Law found no evidence that any of those actions violated Georgia's Constitution.

5. Awarding higher multipliers for all three plans (two retroactively) significantly increased the unfunded liability of each plan.

6. Although reducing attrition in the Fire and Police ranks was a major rationale for the 2001 and 2005 pension enhancements, we found no evidence of such results.

7. Atlanta appears to have historically made its 'annual required contributions' (ARC) to the plans.

8. Atlanta's pension plan investment performance closely mirrors that of Fulton, DeKalb, and Cobb counties.

9. Since 2001, underperforming investments due to market weakness have significantly increased Atlanta's required contributions.

10. Atlanta's 'annual required contribution' (ARC), which is already consuming an ever-greater portion of the General Fund, is projected to increase dramatically in the coming years.

Recommendations:

1. Adopt a policy statement affirming that any/all Atlanta pension plan(s) should:

    A) Provide a retiree the opportunity to receive 75% of his highest pre-retirement income.
    B) Observe the standard "three-legged stool" formula regarding the 75%: one-third personal savings; one-third pension; one-third Social Security (or

equivalent).

C) Absent Social Security participation, Atlanta should provide TWO-thirds of the 75%, or 50% of highest pre-retirement income.
D) The target percentage should be higher for lower-salaried employees.
E) Changes in the pension plans should bring the benefits offered by Atlanta's different plans closer together.
F) Salary (not pension benefits) should be the primary tool for addressing employees with demonstrably more hazardous jobs, i.e. police and fire.

2. Working with pension board trustees, union leaders, actuaries, and other appropriately credentialed consultants, the City should:

   A) Evaluate the adoption of a 'rolling' pension fund amortization, and explore additional funding and investment methods.
   B) Weigh the pros/cons of participating in Social Security.
   C) Weigh the pros/cons of a surrogate benefit for SS (including a City match for employees' voluntary deferred compensation).
   D) Recommend options for correcting flaws in the Defined Contribution Plan.
   E) Review the governance structure of Atlanta's three defined benefit pension plans.
   F) Evaluate a new, hybrid plan involving elements of both a defined benefit and defined contribution plan. Specifically, such an evaluation would include but not be limited to:
      i. Funding a Defined Benefit plan with a lower multiplier and no employee contribution.
      ii. Encouraging greater voluntary retirement savings by changing the structure of the plan and/or increasing the matching employer contribution.
      iii. Incorporating benefit opportunities offered by the State, as are available to police and fire fighters.

3. Confirm the existence, awareness of, access to, participation, and effectiveness of the various educational/counseling programs available to employees for the purposes of fostering personal savings and financial health.

4. Establish, as legislated for the Defined Contribution plan for General Employees hired after July 1, 2001, the required 'Management Committee' consisting of the Chief Financial Officer, the Chairman of the Finance Committee, and the Mayor or her designee to ratify and oversee the management activities of the Plan Administrator (the CFO).

5. Support Atlanta's proposal in the 2009 Legislative Package to amend State law so as to increase pension fund investment opportunities.

6 Explore options for addressing any terms of the financial relationship between the City and Atlanta Public Schools that disadvantage Atlanta within the General

Employees defined benefit plan.

7. As a potential pension fund revenue-raising source, request via a resolution that the Department of Law evaluate the feasibility of, among other potential sources, adopting ‘surcharges’ that might be applied to City charges, fees, and fines.

8. Request the Finance & Executive Committee to address, with input from union leadership and the Administration, healthcare policies and costs.

9. The Pension Select Committee will seek to discuss these findings and recommendations with the Mayor, Chief Operating Officer, Department of Finance; Department of Law; and Department of Human Resources.

Appendices