

House Bill 635

By: Representatives Lucas of the 139th, Peake of the 137th, Randall of the 138th, Epps of the 140th, Dickey of the 136th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act entitled "Macon Water Commissioners - Pension Plan," approved
 2 December 30, 1953 (Ga. L. 1953, p. 2831), as amended, particularly by an Act approved
 3 March 24, 1994 (Ga. L. 1994, p. 3947), an Act approved April 4, 1996 (Ga. L. 1996, p.
 4 4042), an Act approved May 17, 2004 (Ga. L. 2004, p. 4384), and an Act approved May 5,
 5 2006 (Ga. L. 2006, p. 4392), so as to change the normal retirement age for certain
 6 employees; to change certain provisions relating to calculating a retirement benefit; to change
 7 early retirement provisions for certain employees; to simplify the optional forms of
 8 distribution; to change the definition of the term "disability"; to provide the actuarial
 9 equivalent basis which is stated in the document; to provide for certain limitations on
 10 compensation and benefits; to update provisions relating to required distributions; to provide
 11 for direct rollovers; to provide for related matters; to provide conditions for an effective date
 12 and automatic repeal; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 An Act entitled "Macon Water Commissioners - Pension Plan," approved December 30,
 16 1953 (Ga. L. 1953, p. 2831), as amended, particularly by an Act approved March 24, 1994
 17 (Ga. L. 1994, p. 3947), an Act approved April 4, 1996 (Ga. L. 1996, p. 4042), an Act
 18 approved May 17, 2004 (Ga. L. 2004, p. 4384), and an Act approved May 5, 2006 (Ga. L.
 19 2006, p. 4392), is amended by deleting the provisions contained in said amendatory Acts and
 20 inserting in lieu thereof the following:

21 "ARTICLE I

22 Definitions.

23 As used in this plan, the following words and phrases shall have the meanings set forth
 24 herein unless a different meaning is clearly required by the context:

25 1.1 'Accrued benefit' means, at any time, the amount a member is entitled to receive
26 pursuant to Section 5.2 of the plan. In no event shall the accrued benefit as of any accrual
27 date subsequent to this amendment be less than the accrued benefit as of the adoption
28 date of this amendment.

29 1.2. 'Actuarial equivalent' means a form of benefit differing in time, period, or manner
30 of payment from a specific benefit provided under the plan but having the same value
31 when computed using generally accepted actuarial principles. All alternate forms of
32 distribution shall be actuarially equivalent to the normal annuity form of distribution at
33 the normal retirement date. Effective April 1, 2010, the conversion to an alternate form
34 shall be based upon the 1983 Group Annuity Mortality Table assuming the member is a
35 male and an interest rate of 5 percent. Prior to April 1, 2010, the conversion to an
36 alternate form shall be based upon the UP-1984 Mortality Table and an interest rate of
37 7.75 percent; provided, however, that the pension board may prospectively change the
38 basis for actuarial equivalent to a different mortality table and interest rate basis. Any
39 such change shall be in writing, shall only take effect when recommended by the plan's
40 actuary and then approved by the pension board, and shall be incorporated into the plan
41 by reference to this section.

42 1.3 'Administrator' means the authority unless another person or entity has been
43 designated by the authority pursuant to Section 2.2 of the plan to administer the plan.

44 1.4 'Age' means age at last birthday.

45 1.5 'Anniversary date' means October 1.

46 1.6 'Annuity starting date' means, with respect to any member, the first day of the first
47 period for which an amount is paid as an annuity, or, in the case of a benefit not payable
48 in the form of an annuity, the first day on which all events have occurred which entitles
49 the member to such benefit.

50 1.7 'Authority' and 'Macon Water Authority' means the legal entity created by an Act
51 approved March 2, 1966 (Ga. L. 1966, p. 2737), as amended, particularly by an Act
52 approved March 23, 1992 (Ga. L. 1992, p. 4991).

53 1.8 'Authorized leave of absence' means an unpaid, temporary cessation from active
54 employment with the employer pursuant to an established nondiscriminatory policy,
55 whether occasioned by illness, military service, or any other reason.

56 1.9 'Beneficiary' means the person or entity to whom all or a portion of a deceased
57 member's interest in the plan is payable.

58 1.10 'Code' means the federal Internal Revenue Code of 1986, as amended.

59 1.11 'Compensation' means a member's total wages for federal income tax withholding
60 purposes, as defined under Code Section 3401(a), but excluding any bonuses payable to
61 such member. Such term shall include all other payments to an employee in the course

62 of the employer's trade or business for which the employer must furnish the employee a
63 written statement under Code Sections 6041, 6051, and 6052 ('W-2 Wages'), but
64 determined without regard to any rules that limit the remuneration included in wages
65 based on the nature or location of the employment or services performed. Compensation
66 shall include elective contributions that are made by the employer on behalf of a member
67 that are not includible in gross income under Code Section 125, 132(f)(4), 402(e)(3),
68 402(h)(1)(B), 403(b), 408(p), or 457(b) and shall include amounts included in the
69 employee's gross income under Code Section 402A and contributed by the employer, at
70 the employee's election, to a cafeteria plan, a qualified transportation fringe benefit plan,
71 a 401(k) plan, a Salary Reduction Simplified Employee Pension Plan (SARSEP), a
72 tax-sheltered annuity, a Savings Incentive Match Plan for Employees (SIMPLE), or a
73 Code 457(b) plan. Employee contributions 'picked up' by the authority and treated as
74 employer contributions pursuant to Code Section 414(h)(2) shall also be considered as
75 compensation. The annual compensation of each member taken into account in
76 determining benefit accruals in any plan year beginning after December 31, 2001, shall
77 not exceed \$200,000.00 or such other amount as approved by the United States Secretary
78 of the Treasury from time to time. Compensation for any employee who becomes
79 eligible or ceases to be eligible to participate during a determination period shall only
80 include compensation while the employee is an eligible employee. If, in connection with
81 the adoption of any amendment, the definition of 'compensation' has been modified, then,
82 except as otherwise provided by the plan, for plan years prior to the plan year which
83 includes the adoption date of such amendment, 'compensation' means compensation
84 determined pursuant to the terms of the plan then in effect.

85 1.12 'Credited service' means a member's period of service for purposes of determining
86 the amount of any benefit for which the member is eligible under the plan and is defined
87 as years of service.

88 1.13 'Earliest retirement age' means the earliest attained age for which, under the plan,
89 a member could elect to receive retirement benefits.

90 1.14(A) 'Early retirement date' means the first day of the month following the date for
91 which, under the plan, a member could elect to receive retirement benefits. A member
92 shall be eligible for early retirement benefits if the member terminates employment
93 with the employer on or after the earlier of:

- 94 (i) For grandfathered members, the attainment of age 55, and the completion of 15
95 years of service;
- 96 (ii) For grandfathered members, the attainment of age 63 and the completion of 25
97 years of service;
- 98 (iii) For grandfathered members, the completion of 30 years of service; or

99 (iv) For nongrandfathered members, the attainment of age 62 and the completion of
100 15 years of service.

101 (B) With respect to members eligible for early retirement benefits pursuant to divisions
102 (i) and (ii) of subparagraph (A) of this paragraph, the amount of the early retirement
103 benefit shall be the member's accrued benefit as of his or her early retirement date,
104 actuarially reduced in accordance with paragraph (1.2) of this section of the plan for
105 each additional month by which the member's annuity starting date precedes the
106 member's normal retirement date. With respect to members eligible for early retirement
107 benefits pursuant to division (iii) of subparagraph (A) of this paragraph, the amount of
108 the early retirement benefit shall be unreduced.

109 (C) With respect to members eligible for early retirement benefits pursuant to division
110 (iv) of subparagraph (A) of this paragraph, the amount of the early retirement benefit
111 shall be the member's accrued benefit as of his or her annuity starting date, actuarially
112 reduced at a rate of 0.5 percent for each month by which the member's annuity starting
113 date precedes the member's normal retirement date.

114 1.15 'Effective date' means October 1, 2010, except to the extent that provisions are
115 required to apply to an earlier date or are required to apply to any other members in order
116 to comply with applicable law or the terms of the plan. The original effective date of the
117 plan was December 30, 1953. 'Date of enactment' is July 1, 2012. Plan changes in
118 paragraphs (1.14), (1.21), and (1.31) of this section, Section 4.1, and the minimum benefit
119 under Section 5.2 of the plan take effect on July 1, 2012.

120 1.16 'Eligible employee' means all employees and officers of the authority, except for:

- 121 (A) Elected members of the authority and the attorney-at-law for the authority;
- 122 (B) All casual or temporary employees and contractors and their employees, whose
123 work with the authority is casual, temporary, or by the job or contract; and
- 124 (C) All officers and employees whose employment with the authority is part time and
125 the majority of whose income is not derived from employment with the authority; the
126 authority is vested with full authority to solely and exclusively judge and determine the
127 application of this coverage exception.

128 1.17 'Employee' means any person who is employed by the employer.

129 1.18 'Employer' means the Macon Water Authority.

130 1.19 'Family member' means, with respect to an affected member, such member's spouse
131 and such member's lineal descendants and ascendants and their spouses, all as described
132 in Code Section 414(q)(6)(B).

133 1.20 'Fiduciary' means any person who:

134 (A) Exercises any discretionary authority or discretionary control respecting
135 management of the plan or exercises any authority or control respecting management
136 or disposition of its assets;

137 (B) Renders investment advice for a fee or other compensation, direct or indirect, with
138 respect to any moneys or other property of the plan or has any authority or
139 responsibility to do so; or

140 (C) Has any discretionary authority or discretionary responsibility in the administration
141 of the plan.

142 1.21(A) 'Final average monthly compensation' means the total compensation of a
143 member received from the authority during the last three years of service with the
144 authority, divided by 36; provided, however, that in the event of prolonged illness or
145 other justifying cause suffered by the member, such condition to be judged solely by
146 the authority, the authority may compute a member's final average monthly
147 compensation by using the three years most productive of compensation from the
148 authority, and divide such total by 36.

149 (B) Notwithstanding the provisions of subparagraph (A) of this paragraph, effective
150 December 31, 2012, 'final average monthly compensation' means the total
151 compensation of a member received from the authority during the four consecutive
152 calendar years that produce the highest average out of the last 15 calendar years,
153 divided by 48. In no event shall the final average monthly compensation determined
154 in this paragraph be less than the final average monthly compensation determined under
155 subparagraph (A) of this paragraph and calculated on December 31, 2012.

156 1.22 'Forfeiture' means that portion of a member's accrued benefit that is not vested and
157 is disposed of in accordance with the provisions of the plan. A forfeiture will occur on
158 the earlier of:

159 (A) The last day of a one-year break in service;

160 (B) The distribution of the entire vested portion of the member's accrued benefit of a
161 former member who severed employment with the employer. For purposes of this
162 subparagraph, if the former member has a vested benefit of zero, then such former
163 member shall be deemed to have received a distribution of such vested benefit as of the
164 year in which the severance of employment occurs; or

165 (C) The distribution of the entire balance of a member's employee contributions, plus
166 interest.

167 1.23 'Former member' means a person who has been a member, but who has ceased to
168 be a member for any reason and has incurred a one-year break in service.

169 1.24 'Hour of service' means an hour of service with the authority.

170 1.25 'Investment manager' means a fiduciary as described in Code Section 3(38).

171 1.26 'Joint and survivor annuity' means an annuity for the life of a member with a
172 survivor annuity for the life of the member's beneficiary which is not less than 50 percent
173 nor greater than 100 percent of the amount of the annuity payable during the joint lives
174 of the member and the member's beneficiary. The joint and survivor annuity shall be the
175 actuarial equivalent of the member's present value of vested accrued benefit.

176 1.27 'Late retirement date' means the first day of the month coinciding with or next
177 following a member's actual retirement after having reached the normal retirement date.

178 1.28 'Limitation year' means the plan year.

179 1.29(A) 'Member' means any eligible employee who has satisfied the requirements of
180 Section 3.2 of the plan and has not for any reason become ineligible to participate
181 further in the plan.

182 (B) 'Grandfathered member' means a member who, on January 1, 2011, was either age
183 53 or older or age 40 or older with at least 20 years of service.

184 (C) 'Nongrandfathered member' means a member who is not a grandfathered member.

185 1.30 'Maternity or paternity leave of absence' means an absence from work for any
186 period by reason of the employee's pregnancy, birth of the employee's child, placement
187 of a child with the employee in connection with the adoption of such child, or any
188 absence for the purpose of caring for such child for a period immediately following such
189 birth or placement.

190 1.31 'Normal retirement age' means, for a grandfathered member, age 63. 'Normal
191 retirement age' means, for a nongrandfathered member, the attainment of Social Security
192 Retirement Age.

193 1.32 'Normal retirement date' means the first day of the month immediately next
194 following the date on which the member reached normal retirement age.

195 1.33 'One-year break in service' means a period of severance of 12 consecutive months;
196 provided, however, that in the case of an employee who is absent from work with the
197 authority for maternity or paternity reasons, the 12 consecutive month period beginning
198 on the first anniversary of the first date the employee is otherwise absent from service
199 with the authority does not constitute a one-year break in service.

200 1.34 'Permanently and totally disabled' means that a member has been determined to be
201 disabled within the meaning of the federal Social Security Act and regulations thereunder
202 and is actually drawing Social Security benefits on account of such disability.

203 1.35 'Plan' means the Macon Water Authority employees' pension plan created by this
204 Act, any and all supporting documents, and all subsequent amendments and supplements
205 thereto.

206 1.36 'Plan year' means the plan's 12 consecutive month accounting year, beginning on
207 January 1 and ending the following December 31.

- 208 1.37 'Present value of accrued benefit' means the actuarial equivalent lump-sum amount
209 of a member's accrued benefit at date of valuation.
- 210 1.38 'Regulation' means the income tax regulations as promulgated by the United States
211 Secretary of the Treasury or his or her delegate, as amended from time to time.
- 212 1.39 'Retired member' means a member who has become entitled to retirement benefits
213 under the plan.
- 214 1.40 'Retirement date' means the date as of which a member retires whether such
215 retirement occurs on a member's normal retirement date, early retirement date, or late
216 retirement date.
- 217 1.41 'Social Security retirement age' with respect to a member means age 65 if the
218 member attains age 62 before January 1, 2000, and was born before January 1, 1938; age
219 66 if the member attains age 62 after December 31, 1999, but before January 1, 2017, and
220 was born after December 31, 1937, but before January 1, 1955; and age 67 if the member
221 attains age 62 after December 31, 2016, and was born after December 31, 1954, unless
222 the same shall be modified by federal law, in which case the modifications shall be
223 incorporated herein by reference.
- 224 1.42 'Sponsor' means the Macon Water Authority and any successor thereto that elects
225 to assume sponsorship of this plan.
- 226 1.43 'Spouse' means the spouse of a married member, provided that a former spouse shall
227 be treated as a spouse or surviving spouse to the extent provided under a qualified
228 domestic relations order as described in Code Section 414(p).
- 229 1.44 'Straight life annuity' means an annuity payable in equal installments for the life of
230 a member that terminates upon the member's death.
- 231 1.45 'Terminated member' means a person who has been a member, but whose
232 employment has been terminated other than by death or retirement.
- 233 1.46 'Trustee' means the person, corporation, association, or combination of them who
234 accepts the appointment to execute the duties of the trustee as specifically set forth in any
235 trust agreement entered into pursuant to the plan.
- 236 1.47 'Trust fund' means the assets of the plan and trust as the same shall exist from time
237 to time.
- 238 1.48 'Vested' means the nonforfeitable portion of a member's accrued benefit.
- 239 1.49 'Year of service' means the computation period of 12 consecutive months during
240 which an employee is employed by the authority. In computing fractional years of
241 service, six or more service months shall be considered a year of service. No period
242 during which benefits are being paid shall be considered service or any portion of a year
243 of service. The computation period shall begin with the date on which the employee first
244 performs an hour of service (employment commencement date). Subsequent

245 computation periods shall continue to end on subsequent anniversary dates of the
246 employee's employment commencement date.

247 ARTICLE II

248 Administration.

249 2.1. POWERS AND RESPONSIBILITIES OF THE AUTHORITY.

250 (a) In addition to the general powers and responsibilities otherwise provided for in this
251 plan, the authority shall be empowered to appoint and remove the trustee and the
252 administrator from time to time as it deems necessary for the proper administration of the
253 plan to ensure that the plan is being operated for the exclusive benefit of the members and
254 their beneficiaries in accordance with the terms of the plan and the Code. The authority
255 may appoint counsel, specialists, advisers, agents, including any nonfiduciary agent, and
256 other persons as the authority deems necessary or desirable in connection with the exercise
257 of its fiduciary duties under this plan. The authority may compensate such agents or
258 advisers from the assets of the plan as fiduciary expenses, but not including any business
259 or settlor expenses of the employer, to the extent not paid by the employer.

260 (b) The authority may, by written agreement or designation, appoint at its option an
261 investment manager, qualified under the federal Investment Company Act of 1940, as
262 amended, an investment adviser, or other agent to provide direction to the trustee with
263 respect to any or all of the plan assets. Such appointment shall be given by the authority
264 in writing in a form acceptable to the trustee and shall specifically identify the plan assets
265 with respect to which the investment manager or other agent shall have the authority to
266 direct the investment.

267 (c) The authority may invest all or any part of the trust fund:

268 (1) As provided by the then effective laws of Georgia for investments by trustees or
269 investments by guardians without court order or proceedings;

270 (2) As provided by the then effective laws of Georgia for investments by trustees or
271 investments by guardians with court order or proceedings; and

272 (3) Without court order and without authority or permission of any kind, other than as
273 provided in the plan, in stocks, bonds, and securities then approved as investments of
274 common trust funds by an active trust department of any state or national bank having a
275 place of business in the State of Georgia.

276 (d) The authority may at any time, and from time to time and subject to immediate
277 revocation, delegate the powers of investment, or any portion thereof, provided for in
278 subsection (c) of this section to a custodian of the trust fund; but no investment by a
279 custodian other than as provided by the then effective laws of the State of Georgia for

280 investments by trustees or guardians without court order shall be made except upon written
281 approval of each specific investment by the authority or by the member of the authority
282 designated for the purpose of supervising such investments.

283 2.2. DESIGNATION OF ADMINISTRATIVE AUTHORITY.

284 The authority shall be the administrator. The authority may appoint a committee, to be
285 known as the pension committee, composed of six members. The pension committee shall
286 perform the duties of the administrator in accordance with the rules and regulations as may
287 be prescribed by the authority. The authority shall elect three of its members to the pension
288 committee who shall serve at the pleasure of the authority. The official and employee
289 members of the plan shall elect and certify to the authority three members who shall serve
290 on the pension committee for terms of four years and until their successors are elected. The
291 members of the plan shall meet on the first Monday in April beginning in 1994 and each
292 two years thereafter for the purpose of electing the employee members of the pension
293 committee. The members of the plan shall also meet to elect any new member required to
294 fill any unexpired term created by a vacancy in office. In the event of an equal division of
295 opinion of the pension committee on any matter properly brought before it, the Chief Judge
296 of the Macon Judicial Circuit, or his or her designee, shall be consulted and shall cast the
297 deciding vote.

298 2.3. ALLOCATION AND DELEGATION OF RESPONSIBILITIES.

299 The responsibilities of the pension committee may be specified by the authority and
300 accepted in writing by each elected member. In the event that no such delegation is made
301 by the authority, the pension committee may allocate the responsibilities among
302 themselves, in which event the pension committee shall notify the authority and the trustee
303 in writing of such action and specify the responsibilities of each member of the pension
304 committee. The trustee thereafter shall accept and rely upon any documents executed by
305 the appropriate member until such time as the authority or the pension committee file with
306 the trustee a written revocation of such designation.

307 2.4. POWERS AND DUTIES OF THE ADMINISTRATOR.

308 The primary responsibility of the administrator is to administer the plan for the exclusive
309 benefit of the members and their beneficiaries, subject to the specific terms of the plan.
310 The administrator shall administer the plan in accordance with its terms and shall have the
311 power and discretion to construe the terms of the plan and determine all questions arising
312 in connection with the administration, interpretation, and application of the plan. Any such
313 determination by the administrator shall be conclusive and binding upon all persons. The

314 administrator may establish procedures, correct any defect, supply any information, or
315 reconcile any inconsistency in such manner and to such extent as shall be deemed
316 necessary or advisable to carry out the purpose of the plan; provided, however, that any
317 procedure, discretionary act, interpretation, or construction shall be done in a
318 nondiscriminatory manner based upon uniform principles consistently applied, shall be
319 consistent with the intent that the plan continue to be deemed a qualified plan under the
320 terms of Code Section 401(a), and shall comply with the terms of the plan and all
321 regulations issued pursuant thereto. The administrator shall have all powers necessary or
322 appropriate to accomplish its duties under the plan. The administrator shall be charged
323 with the duties of the general administration of the plan as set forth under the terms of the
324 plan, including, but not limited to, the following:

- 325 (1) The discretion to determine all questions relating to the eligibility of an employee to
326 participate or remain a member and to receive benefits under the plan;
- 327 (2) The authority to review and settle all claims against the plan, including claims where
328 the settlement amount cannot be calculated or is not calculated in accordance with the
329 plan's benefit formula. This authority specifically permits the administrator to settle
330 disputed claims for benefits and any other disputed claims made against the plan;
- 331 (3) To compute, certify, and direct the trustee with respect to the amount and the kind
332 of benefits to which any member shall be entitled under the plan;
- 333 (4) To authorize and direct the trustee with respect to all discretionary or otherwise
334 directed disbursements from the trust fund;
- 335 (5) To maintain all necessary records for the administration of the plan;
- 336 (6) To interpret the provisions of the plan and to make and publish such rules for
337 regulation of the plan that are consistent with the terms of the plan;
- 338 (7) To determine the validity of, and take appropriate action with respect to, any
339 qualified domestic relations order received by it; and
- 340 (8) To adopt a new set of actuarial equivalent factors by resolution, which shall be
341 incorporated into the plan by reference.

342 2.5. RECORDS AND REPORTS.

343 The administrator shall keep a record of all actions taken and shall keep all other books of
344 account, records, and other data that may be necessary for proper administration of the plan
345 and shall be responsible for supplying all information and reports to the federal Internal
346 Revenue Service, members, beneficiaries, and others as required by law.

347 2.6. APPOINTMENT OF ADVISERS.

348 The administrator, or the trustee with the consent of the administrator, may appoint
349 counsel, actuaries, specialists, advisers, agents (including nonfiduciary agents), and other
350 persons as the administrator or the trustee deems necessary or desirable in connection with
351 the administration of the plan, including, but not limited to, agents and advisers to assist
352 with the administration and management of the plan, and by so doing to provide, among
353 such other duties as the administrator may appoint, assistance with maintaining plan
354 records and the providing of investment information to the plan's investment fiduciaries
355 and to plan members.

356 2.7. INFORMATION FROM THE AUTHORITY

357 The authority shall supply full and timely information to the administrator on all pertinent
358 facts as the administrator may require in order to perform its function, and the administrator
359 shall advise the trustee of such of the foregoing facts as may be pertinent to the trustee's
360 duties under the plan. The administrator may rely upon such information as is supplied by
361 the employer and shall have no duty or responsibility to verify such information.

362 2.8. PAYMENT OF EXPENSES

363 All reasonable expenses of administration may be paid out of the plan assets unless paid
364 by the employer. Such expenses shall include any expenses incident to the functioning of
365 the administrator or any person or persons retained or appointed by any named fiduciary
366 incident to the exercise of their duties under the plan, including, but not limited to, fees of
367 accountants, actuaries, counsel, investment managers, agents (including nonfiduciary
368 agents) appointed for the purpose of assisting the administrator or the trustee in carrying
369 out the instructions of members as to the directed investment of their accounts, if permitted,
370 and other specialists and their agents, and other costs of administering the plan. Until paid,
371 the expenses shall constitute a liability of the trust fund. In addition, unless specifically
372 prohibited under statute, regulation, or other guidance of general applicability, the
373 administrator may charge to the account of an individual member a reasonable charge to
374 offset the cost of making a distribution to the member, beneficiary, or alternate payee under
375 a qualified domestic relation order, as defined in Code Section 414(p). If liquid assets of
376 the plan are insufficient to cover the fees of the trustee or the plan administrator, then plan
377 assets shall be liquidated to the extent necessary for such fees. In the event any part of the
378 plan assets becomes subject to tax, all taxes incurred will be paid from the plan assets.
379 Until paid, the expenses shall constitute a liability of the trust fund.

380 ARTICLE III

381 Eligibility.

382 3.1 CONDITIONS OF ELIGIBILITY.

383 Any eligible employee shall be eligible to participate in this plan as of such eligible
384 employee's employment commencement date.

385 3.2 EFFECTIVE DATE OF PARTICIPATION.

386 An eligible employee shall become a member effective as of such eligible employee's
387 employment commencement date.

388 3.3 DETERMINATION OF ELIGIBILITY

389 The administrator shall determine the eligibility of each employee for participation in the
390 plan based upon information furnished by the employer. Such determination shall be
391 conclusive and binding upon all persons so long as the same is made pursuant to the plan.

392 3.4 TERMINATION OF ELIGIBILITY

393 In the event a member shall go from a classification of an eligible employee to an ineligible
394 employee, such former member shall continue to vest in the plan for each year of service
395 completed while an ineligible employee until such time as the member's accrued benefit
396 is forfeited or distributed pursuant to the terms of the plan.

397 3.5 REHIRED EMPLOYEES AND BREAKS IN SERVICE

398 (a) Any member who becomes a former member due to severance from employment with
399 the authority and who is reemployed by the authority shall become a member as of the
400 member's reemployment date, provided such individual is not an ineligible employee as of
401 the member's reemployment date.

402 (b) If any member becomes a former member due to severance from employment with the
403 employer and is reemployed after a one-year break in service has occurred, years of service
404 shall include years of service prior to the one-year break in service subject to the following
405 provisions:

406 (1) The former member's employee contributions, with applicable interest, shall have
407 remained in the plan;

408 (2) The former member has received no benefit under this plan for the prior service; and

409 (3) A former member who has not had years of service before a one-year break in service
410 disregarded pursuant to paragraph (1) of this subsection shall participate in the plan as of
411 the date of reemployment.

412 (c) A former member who has received a distribution which is equal to any portion of his
413 or her accrued benefit under the plan shall not have those years of credited service for
414 which the distribution applied restored upon reemployment with the authority. For
415 purposes of this subsection, if the member's vested portion of the present value of accrued
416 benefit is zero, then the member shall be deemed to have received a distribution of such
417 vested portion.

418 ARTICLE IV

419 Contribution and valuation.

420 4.1 PAYMENT OF EMPLOYEE CONTRIBUTIONS

421 (a) Effective July 1, 2004, each member shall contribute 6.20 percent of compensation
422 received from the authority. Prior to July 1, 2004, each member contributed 4.61 percent
423 of compensation received from the authority from December 30, 1953, until the member's
424 termination of employment.

425 (b) Effective January 1, 2013, each member shall contribute 7.75 percent of compensation
426 received from the authority.

427 (c) Effective July 1, 2002, the authority shall credit each member with simple interest on
428 the member's required employee contributions equal to 75 percent of the actuarial
429 equivalent interest rate per calendar year. Prior to July 1, 2002, the authority credited each
430 member with simple interest on the member's required employee contributions equal to
431 6.00 percent per calendar year.

432 (d) The amount of the employee contributions provided for in this section to be paid by
433 each member shall be deducted and withheld by the authority as an after-tax employee
434 contribution, unless the employer chooses to implement a government pick-up provision
435 that:

436 (1) Specifies that the contributions, although designated as employee contributions, are
437 being paid by the authority in lieu of employee contributions; such action shall be applied
438 prospectively and be evidenced by either resolution or minutes of a meeting of the
439 authority for such action; or

440 (2) Does not permit a member from and after the date of the pick-up to have a cash or
441 deferred election right, within the meaning of Treas. Reg. 1.401(k)-1(a)(3), with respect
442 to designated employee contributions; members may not opt out of the pick-up or elect
443 to receive the contributed amounts directly instead of having them paid by the authority
444 to the plan.

445 4.2 PAYMENT OF EMPLOYER CONTRIBUTIONS

446 The authority shall pay to the plan from time to time such amounts in cash as the
447 administrator and employer shall determine to be necessary to provide the benefits under
448 the plan determined by the application of accepted actuarial methods and assumptions. The
449 authority will contribute the greater of (1) an amount equal to the total member
450 contributions for the fiscal year, less, at the discretion of the authority, any forfeitures, or
451 (2) the amount required to meet the funding requirements of Chapter 20 of Title 47 of the
452 O.C.G.A., the 'Public Retirement Systems Standards Law.' The method of funding shall
453 be consistent with plan objectives; provided, however, that the employer may pay such
454 contributions as appropriate directly to the trustee, and such payment shall be deemed a
455 contribution to the plan. The amounts paid pursuant to this section shall be paid from the
456 general funds of the authority and shall be treated as a personnel expense.

457 4.3 ACTUARIAL METHODS

458 In establishing the liabilities under the plan and contributions to the plan, the plan's actuary
459 will use such methods and assumptions as will reasonably reflect the cost of the benefits.
460 The plan assets are to be valued on the basis of any reasonable method of valuation that
461 takes into account fair market value pursuant to regulations. There must be an actuarial
462 valuation of the plan as frequently as required by law.

463 4.4 QUALIFIED MILITARY SERVICE

464 (a) Notwithstanding any provisions of this plan to the contrary, contributions, benefits, and
465 service credit for qualified military service will be provided in accordance with Code
466 Section 414(u).

467 (b) In the case of a death occurring on or after January 1, 2007, if a participant dies while
468 performing qualified military service, as defined in Code Section 414(u), the participant's
469 beneficiary is entitled to any additional benefits other than benefit accruals relating to the
470 period of qualified military service provided under the plan as if the participant had
471 resumed employment and then terminated employment on account of death. The plan shall
472 credit the participant's qualified military service as service for vesting purposes, as though
473 the participant had resumed employment under the federal Uniformed Services
474 Employment and Reemployment Rights Act ('USERRA') immediately prior to the
475 participant's death.

476 (c) For years beginning after December 31, 2008:

477 (1) An individual receiving a differential wage payment, as defined by Code Section
478 3401(h)(2), is treated as an employee of the employer making the payment;

479 (2) The differential wage payment is treated as compensation for purposes of Code
480 Section 415(c)(3) and Treasury Reg. 1.415(c)-2; and

481 (3) The plan is not treated as failing to meet the requirements of any provision described
482 in Code Section 414(u)(1)(C) or corresponding plan provisions by reason of any
483 contribution or benefit which is based on the differential wage payment. Differential
484 wage payments as described in this subsection shall also be considered compensation for
485 all plan purposes.

486 (d) Subsection (c) of this section shall apply only if all employees of the authority
487 performing service in the uniformed services described in Code Section 3401(h)(2)(A) are
488 entitled to receive differential wage payments, as such term is defined in Code Section
489 3401(h)(2), on reasonably equivalent terms and, if eligible to participate in a retirement
490 plan maintained by the authority, to make contributions or receive benefits based on the
491 payments on reasonably equivalent terms, taking into account Code Sections 410(b)(3), (4),
492 and (5).

493 ARTICLE V

494 Benefits.

495 5.1 NORMAL FORM OF BENEFIT

496 (a) The retirement benefit to be provided for each member who retires on the normal
497 retirement date shall be equal to the member's accrued benefit.

498 (b) The 'normal retirement benefit' payable to a retired member pursuant to this section
499 shall be a straight life annuity which shall be defined as the normal form of benefit. The
500 actual form of distribution of such benefit, however, shall be determined pursuant to the
501 provisions of Section 5.10 of the plan.

502 5.2 NORMAL RETIREMENT BENEFITS

503 A member's normal retirement benefit shall be a monthly pension payable in the normal
504 form of benefit and commencing on a member's normal retirement date in an amount equal
505 to the product of the member's final average monthly compensation multiplied by the
506 member's years of service as of the date of determination and, effective July 1, 2004,
507 multiplied by the percentage set forth in the following table, based on the member's years
508 of service as of the date of determination:

	Years of Service	Percentage
509		
510	1-30	2.000%
511	31	2.025%
512	32	2.050%
513	33	2.075%
514	34	2.100%
515	35	2.125%
516	36	2.150%
517	37	2.175%
518	38	2.200%
519	39	2.225%
520	40 or more	2.250%

521 With respect to retirement benefits initiated prior to July 1, 2004, the table was equal to:

	Years of Service	Percentage
522		
523	1-30	1.750%
524	31	1.775%
525	32	1.800%
526	33	1.825%
527	34	1.850%
528	35	1.875%
529	36	1.900%
530	37	1.925%
531	38	1.950%
532	39	1.975%
533	40 or more	2.000%

534 In the event the member's normal retirement benefit does not equal at least \$20.00
 535 multiplied by the number of years of service up to a maximum of ten years, then the
 536 member's normal retirement benefit shall be the product of \$20.00 multiplied by the
 537 number of years of service up to a maximum of \$200.00. In no event shall a member's
 538 accrued benefit be less than his or her accrued benefit determined as of the date of
 539 enactment based on the plan provisions in effect on that date. The minimum normal
 540 retirement benefit for a nongrandfathered member shall be the actuarial equivalent of the
 541 accrued benefit as of the December 31 coinciding with or immediately following the date
 542 of enactment adjusted by the applicable early retirement factor for the difference between
 543 the old and the new normal retirement date.

544 5.3 EARLY RETIREMENT BENEFITS

545 A member may elect to retire on the early retirement date. With respect to members
546 eligible for early retirement benefits pursuant to subparagraphs (A) and (B) of paragraph
547 (1.14) of Article I of the plan, the amount of the early retirement benefit shall be the
548 member's accrued benefit as of his or her early retirement date, actuarially reduced in
549 accordance with paragraph (1.14) of Article I of the plan for each additional month by
550 which the member's annuity starting date precedes the member's normal retirement date.

551 5.4 LATE RETIREMENT BENEFITS

552 A member may continue in the employ of the authority following a member's normal
553 retirement date. In such event, no retirement benefit will be paid to the member until the
554 member actually retires, subject to any required minimum distribution payments. At the
555 member's late retirement date, the affected member's late retirement benefit shall be the
556 member's accrued benefit based on credited service and final average monthly
557 compensation determined as of the member's late retirement date.

558 5.5 DISABILITY RETIREMENT BENEFITS

559 (a)(1) If a member becomes permanently and totally disabled after five continuous years
560 of service, he or she shall be 100 percent vested and shall be entitled to receive a monthly
561 disability retirement benefit equal to 1.750 percent of the member's final average monthly
562 compensation multiplied by the member's number of years of service as of the date of
563 disability determination; provided, however, that a member's monthly disability
564 retirement benefit shall in no event be less than \$20.00 per month for each year of
565 continuous service.

566 (2) If a member becomes permanently and totally disabled after earning at least 30 years
567 of service, the member shall be entitled to benefits calculated in accordance with Section
568 5.2 of the plan without actuarial reduction for early commencement of benefits.

569 (b) A member who becomes permanently and totally disabled as a result of accidental,
570 violent, and external causes suffered in the line of duty and in the performance of duty shall
571 be entitled to a monthly disability retirement benefit equal to two-thirds of the member's
572 final average monthly compensation without actuarial reduction for early commencement
573 of benefits.

574 (c) The determination of disability shall be applied uniformly to all participants. In the
575 event that the federal Social Security Administration determines that a member is no longer
576 permanently and totally disabled and such member is no longer drawing Social Security
577 benefits pursuant to the federal Social Security Act, the authority may order that the
578 member return to active service with the authority and that the member's retirement benefit

579 payments be discontinued during the period of such active employment with the authority.
580 In the event the member so ordered by the authority to return to active employment with
581 the authority fails or refuses to do so within 30 days of written notice, the member's right
582 to disability retirement benefits pursuant to this section shall cease. In the event such
583 member shall return to active employment with the authority as ordered by the authority,
584 such member shall resume payment of employee contributions then required by the plan
585 and shall likewise be entitled to further service credit during the time the member remains
586 in the active employment of the authority. Such member shall not be entitled to other
587 retirement benefits of the plan except by relinquishment of any and all rights to any
588 disability retirement benefits.

589 (d) No disability payment pursuant to this section shall be paid if:

590 (1) It is found that the member's disability was caused by the member's willful
591 misconduct, a self-inflicted injury, or a member's attempt unlawfully to insure another
592 or to commit or attempt to commit a felony under the laws of the State of Georgia or of
593 the United States;

594 (2) The disability from external causes was suffered in the line of duty and in
595 performance of duty for the period for which the member receives payment or for the
596 period computed in a lump sum payment under Chapter 9 of Title 34 of the O.C.G.A.,
597 relating to workers compensation; or

598 (3) The member is receiving remuneration as an officer or employee of the authority.

599 5.6 DEATH BENEFITS

600 (a) Any death benefit paid by the plan on behalf of a member shall be made to the
601 member's surviving spouse, or if there is no surviving spouse, to the member's beneficiary,
602 or if there is no beneficiary, to the member's surviving heirs at law.

603 (b) In the event a member dies prior to retirement, the member's death benefit recipient
604 shall receive a death benefit equal to the member's cumulative employee contributions plus
605 simple interest credited to the member's contributions annually at the rate of 75 percent of
606 the actuarial interest credit in effect during the member's time of service as specified in
607 Section 4.1 of the plan. Such interest credit shall be calculated on employee contributions
608 made by the member through the December 31 coincident with or immediately preceding
609 the member's date of death.

610 (c) In the event a member is killed by accidental, violent, and external causes sustained in
611 the line of duty and the active performance of duty, then the member's death benefit
612 recipient shall receive a death benefit as described in subsection (b) of this section, plus an
613 additional death benefit equal to \$100.00 multiplied by the member's years of service, up
614 to a maximum additional death benefit of \$500.00.

615 (d) In the event an actively employed married member dies prior to actual retirement, but
616 has met the age or service requirements for early retirement or normal retirement
617 prescribed in Section 5.2 or Section 5.3 of the plan, the member's surviving spouse shall
618 be entitled to a monthly benefit equal to 50 percent of the benefit payable to the member
619 as of the first day of the month next following the member's date of death, assuming the
620 member had elected to retire as of the member's date of death and elected a joint and 50
621 percent survivor annuity option.

622 (e) In the event a pensioned member who is receiving retirement benefits pursuant to this
623 article of the plan in a form other than as a joint and survivor annuity or any other optional
624 form of benefit that does not require the designation of a beneficiary dies prior to receiving
625 pension benefits in an amount equal to the death benefit provided in subsection (b) of this
626 section (the amount of interest to be calculated and credited, however, to the date of the
627 member's retirement, only for purposes of this subsection), the difference remaining shall
628 be paid to the member's death benefit recipient as otherwise provided in this section.

629 (f) In the event a pensioned member who is receiving retirement benefits pursuant to this
630 article of the plan as a joint and survivor annuity or any other optional form of benefit that
631 requires the designation of a beneficiary, and such member and the member's beneficiary
632 die prior to receiving combined total pension benefits in an amount equal to the death
633 benefit provided in subsection (b) of this section (the amount of interest to be calculated
634 and credited, however, to the date of the member's retirement, only for purposes of this
635 subsection), the difference remaining shall be paid to the member's death benefit recipient
636 as otherwise provided in this section.

637 (g) The administrator may require such proper proof of death and such evidence of the
638 right of any person to receive the death benefit payable as a result of the death of a member
639 as the administrator may deem desirable. The administrator's determination of death and
640 the right of any person to receive payment shall be conclusive.

641 (h) Notwithstanding anything in this section to the contrary, if a member has designated
642 the spouse as a beneficiary, then a divorce decree or a legal separation that relates to such
643 spouse shall revoke the member's designation of the spouse as a beneficiary unless the
644 decree or a qualified domestic relations order within the meaning of Code Section 414(p)
645 provides otherwise.

646 5.7 TERMINATION OF EMPLOYMENT BEFORE RETIREMENT

647 (a)(1) In the event a member terminates service with the authority, or in the event the
648 member's service is terminated for any reason other than death or cause for which the
649 member receives benefit payments elsewhere under the plan, the member may elect to
650 receive a severance benefit equal to the member's cumulative employee contributions,

651 plus simple interest credited to the member's contributions annually at the rate of 75
 652 percent of the actuarial interest credit in effect during the member's time of service as
 653 specified in Section 4.1 of the plan. Such interest credit shall be calculated on employee
 654 contributions made by the member through the December 31 coincident with or
 655 immediately preceding the member's termination of service. Such payment is in lieu of
 656 all other benefits provided under the plan, and shall be the exclusive benefit provided to
 657 a member who elects to take his or her severance benefit.

658 (2) Within a reasonable time period following a member's termination of service, a
 659 terminated member shall be notified in writing by certified mail, return receipt requested,
 660 of his or her option to forego the severance benefit described in paragraph (1) of this
 661 subsection and leave the member's employee contributions in the plan's trust so as to
 662 avoid the forfeiture of the member's accrued benefit related to employer contributions.
 663 The terminated member shall be afforded a 12 month period, measured from the date of
 664 the member's termination of service, in which to make such election. In the absence of
 665 an election by the terminated member, at the expiration of such 12 month period, the
 666 authority shall cause the trustee to distribute such severance benefit to the member as
 667 soon as administratively practicable.

668 (b) At the election of the terminated member, a member shall be entitled to receive
 669 actuarially reduced benefits prior to normal retirement age pursuant to this section, on or
 670 after the date the member would have become eligible for early retirement.

671 (c) Payment to a terminated member of the vested portion of the accrued benefit who has
 672 not received a benefit under subsection (a) of this section or commenced the receipt of a
 673 benefit under this section, unless the terminated member otherwise elects, shall begin not
 674 later than the sixtieth day after the close of the plan year in which the later of the following
 675 events occurs: (1) the date on which the member attains normal retirement age; or (2) the
 676 date the member terminates service with the employer.

677 (d) A member shall always be 100 percent vested in his or her own employee
 678 contributions. The vested portion of any member's accrued benefit shall be a percentage
 679 of such member's accrued benefit determined on the basis of the member's number of years
 680 of service according to the following vesting schedule:

Years of Service	Vesting Percentage
Less than five years	0.000%
Five years or more	100.000%

684 If the member's vested portion of the present value of accrued benefit is zero, then the
 685 deemed cashout rule will apply and the member shall be deemed to have received a
 686 distribution of such vested portion; provided, however, that a member's entire interest in

687 the plan shall be nonforfeitable upon the member's normal retirement age if the member
688 is an active employee employed by the employer on or after such date.

689 (e) Notwithstanding the provisions of subsection (d) of this section, the vested percentage
690 of a member's accrued benefit shall not be less than the vested percentage attained as of the
691 later of the effective date or adoption date of this amendment. The computation of a
692 member's nonforfeitable percentage of such member's interest in the plan shall not be
693 reduced as the result of any direct or indirect amendment to this article. If the plan's
694 vesting schedule is amended, then the amended schedule shall apply to those members who
695 complete an hour of service after the effective date of the amendment.

696 (f) If the plan's vesting schedule is amended, or if the plan is amended in any way that
697 directly or indirectly affects the computation of the member's nonforfeitable percentage,
698 then each member with at least three years of service as of the expiration date of the
699 election period may elect to have such member's nonforfeitable percentage computed under
700 the plan without regard to such amendment or change. If a member fails to make such
701 election, then such member shall be subject to the new vesting schedule. The member's
702 election period shall commence on the adoption date of the amendment and shall end 60
703 days after the latest of: (1) the adoption date of the amendment, (2) the effective date of the
704 amendment, or (3) the date the member receives written notice of the amendment from the
705 employer or administrator.

706 5.8 BENEFIT REDUCTIONS FOR PRIOR PAYMENTS

707 Notwithstanding the provisions of Section 5.7 of the plan, a member's benefit payable
708 under the plan shall be reduced to reflect prior payments under the plan. At the time a
709 member who has received previous payments from the plan is eligible to receive additional
710 benefits, benefit payments shall resume and shall be equal to his or her recomputed benefit,
711 reduced actuarially to reflect any benefits previously received, including total benefit
712 distributions and deemed total benefit distributions; provided, however, that in no event
713 shall a recomputation of a member's benefit cause him or her to receive less in the way of
714 monthly payments than what he or she was previously receiving reduced by the actuarial
715 equivalent of any total benefit distributions, if any, paid after his or her previous retirement
716 payments ceased.

717 5.9 COST OF LIVING ADJUSTMENTS TO RETIREMENT BENEFITS

718 The following cost of living increases have been implemented for the benefit of members
719 and their beneficiaries:

720 (1) Effective January 2, 1992, the monthly benefit of every member who was retired and
721 receiving benefits prior to July 1, 1986, shall be increased by 5 percent on a one-time

722 basis. This one-time increase in benefits shall also be applicable to any beneficiary if that
723 beneficiary's member was retired and receiving benefits prior to July 1, 1986;

724 (2) The monthly benefit of every member who was retired and receiving benefits prior
725 to March 28, 1988, but after June 30, 1986, and of every beneficiary of such member
726 shall be increased by 5 percent; such increase shall be paid on benefits received on and
727 after April 1, 1994; and

728 (3) The monthly benefit of every member who is retired and receiving benefits and of
729 every beneficiary of such member shall be increased every five years by 2 percent,
730 retroactive to April 1, 1994; this cost of living adjustment shall be effective as of October
731 1, 2004.

732 5.10 DISTRIBUTION OF BENEFITS

733 (a) Election. A member shall be entitled to elect, or revoke a previous election and make
734 a new election, at any time six months or more prior to the member's retirement, or prior
735 to commencement of benefit payments, to have his or her retirement benefit payment
736 payable under one of the options set forth in this section in lieu of the normal form of
737 benefit payment. A member's election of any optional form of benefit shall be made by the
738 member in writing and shall be subject to approval, on a nondiscriminatory basis, by the
739 authority. Any optional form of benefit thus elected shall be paid in accordance with the
740 terms of such option. A member who retires as a result of being totally and permanently
741 disabled shall be entitled to receive the member's retirement benefit as a life annuity or as
742 a reduced joint and survivor annuity.

743 (b) Optional forms of benefit. The amount of any optional form of benefit shall be the
744 actuarial equivalent of the benefit that would otherwise be payable to the member.
745 Optional forms of benefit are as follows:

746 (1) A reduced joint and survivor annuity option, with a fractional amount of either 50
747 percent, 75 percent, or 100 percent designated by the member as the survivor benefit
748 payable to his or her beneficiary; or

749 (2) A reduced ten-year certain and life annuity option.

750 (c) Notice. For any distribution notice issued in plan years beginning after December 31,
751 2006, any plan provision requiring that the notice requirements of Code Sections 402(f)
752 (the rollover notice) and 411(a)(11) (member's consent to distribution) be implemented no
753 more than 90 days prior to the annuity starting date may be implemented no more than 180
754 days prior to the annuity starting date.

755 (d) Distribution of benefits. Notwithstanding any provision in the plan to the contrary, the
756 distribution of a member's benefits, whether under the plan or through the purchase of an

757 annuity contract, shall be made in accordance with the requirements of subsections (e)
758 through (u) of this section and shall otherwise comply with Code Section 401(a)(9) and the
759 regulations thereunder, including Regulation 1.401(a)(9)-6.

760 (e)(1) General rules. Except as otherwise provided in this section, distributions of the
761 member's accrued benefit shall be paid in the form of periodic annuity payments for the
762 member's life or the joint lives of the member and beneficiary or over a period certain that
763 does not exceed the maximum length of the period certain determined in accordance with
764 subsection (g) of this section. The interval between payments for the annuity shall be
765 uniform over the entire distribution period and shall not exceed one year. Once payments
766 have commenced over a period, the period may only be changed in accordance with
767 subsection (n) of this section. Life or joint and survivor annuity payments must satisfy
768 the minimum distribution incidental benefit requirements of subsection (f) of this section.
769 Except as otherwise provided in this section, such as permitted increases described in
770 subsection (o) of this section, all payments, whether paid over a member's life, joint lives,
771 or a period certain, also shall be nonincreasing.

772 (2) Annuity commencement. Annuity payments shall commence on or before the
773 member's required beginning date, within the meaning of A-2 of Regulation
774 1.401(a)(9)-2. The first payment, which shall be made on or before the member's
775 required beginning date, shall be the payment which is required for one payment interval.
776 The second payment need not be made until the end of the next payment interval even if
777 that payment interval ends in the next calendar year. Similarly, in the case of
778 distributions commencing after death in accordance with Code Section 401(a)(9)(B)(iii)
779 and (iv), the first payment, which shall be made on or before the date determined under
780 A-3(a) or (b), whichever is applicable, of Regulation 1.401(a)(9)-3, must be the payment
781 which is required for one payment interval. Payment intervals are the periods for which
782 payments are received: bimonthly, monthly, semiannually, or annually. All benefit
783 accruals as of the last day of the first distribution calendar year must be included in the
784 calculation of the amount of annuity payments for payment intervals ending on or after
785 the member's required beginning date.

786 (3) Single sum distributions.

787 (A) In the case of a single sum distribution of a member's entire accrued benefit during
788 a distribution calendar year, the amount that is the required minimum distribution for
789 the distribution calendar year, and thus not eligible for rollover under Code Section
790 402(c), is determined using either the rule in paragraph (1) of subsection (d) of this
791 section or the rule in subparagraph (B) of paragraph (4) of this subsection.

792 (B) The portion of the single sum distribution that is a required minimum distribution
793 is determined by treating the single sum distribution as a distribution from an individual

794 account plan and treating the amount of the single sum distribution as the member's
795 account balance as of the end of the relevant valuation calendar year. If the single sum
796 distribution is being made in the calendar year containing the required beginning date
797 and the required minimum distribution for the member's first distribution calendar year
798 has not been distributed, the portion of the single sum distribution that represents the
799 required minimum distribution for the member's first and second distribution calendar
800 years is not eligible for rollover.

801 (C) The portion of the single sum distribution that is a required minimum distribution
802 may to be determined by expressing the member's benefit as an annuity that would
803 satisfy this section with an annuity starting date as of the first day of the distribution
804 calendar year for which the required minimum distribution is being determined and
805 treating one year of annuity payments as the required minimum distribution for that
806 year and not eligible for rollover. If the single sum distribution is being made in the
807 calendar year containing the required beginning date and the required minimum
808 distribution for the member's first distribution calendar year has not been made, the
809 benefit must be expressed as an annuity with an annuity starting date as of the first day
810 of the first distribution calendar year, and the payments for the first two distribution
811 calendar years would be treated as required minimum distributions and not eligible for
812 rollover.

813 (4) Death benefits. The provisions of paragraph (1) of this subsection prohibiting
814 increasing payments under an annuity shall apply to payments made upon the death of
815 a member; provided, however, that for purposes of this section, an ancillary death benefit
816 described in this paragraph may be disregarded in applying that rule. Such an ancillary
817 death benefit is excluded in determining a member's entire interest and the rules
818 prohibiting increasing payments shall not apply to such an ancillary death benefit. A
819 death benefit with respect to a member's benefit is an ancillary death benefit for purposes
820 of this section if:

821 (A) It is not paid as part of the member's accrued benefit or under any optional form
822 of the member's benefit; and

823 (B) The death benefit, together with any other potential payments with respect to the
824 member's benefit that may be provided to a survivor, satisfies the incidental benefit
825 requirement of Regulation 1.401-1(b)(1)(i).

826 (f) Minimum distribution incidental benefit ('MDIB') requirement and incidental benefit
827 requirement.

828 (1) Life annuity for member. If the member's benefit is paid in the form of a life annuity
829 for the life of the member satisfying Code Section 401(a)(9) without regard to the

830 minimum distribution incidental benefit ('MDIB') requirement, the MDIB requirement
831 of Code Section 401(a)(9)(G) will be satisfied.

832 (2) Joint and survivor annuity, spouse beneficiary. If the member's sole beneficiary, as
833 of the annuity starting date for annuity payments, is the member's spouse and the
834 distributions satisfy Code Section 401(a)(9) without regard to the MDIB requirement, the
835 distributions to the member shall be deemed to satisfy the MDIB requirement of Code
836 Section 401(a)(9)(G).

837 (3) Joint and survivor annuity, nonspouse beneficiary - explanation of rule. If
838 distributions commence under a distribution option that is in the form of a joint and
839 survivor annuity for the joint lives of the member and a beneficiary other than the
840 member's spouse, the MDIB requirement will not be satisfied as of the date distributions
841 commence unless under the distribution option the annuity payments to be made on and
842 after the member's required beginning date will satisfy the conditions of this paragraph.
843 The periodic annuity payment payable to the survivor must not at any time on and after
844 the member's required beginning date exceed the applicable percentage of the annuity
845 payment payable to the member using the table located in Regulation 1.401(a)(9)-6,
846 which is incorporated herein by reference as if set forth verbatim. The applicable
847 percentage is based on the adjusted member beneficiary age difference. The adjusted
848 member beneficiary age difference is determined by first calculating the excess of the age
849 of the member over the age of the beneficiary based on their ages on their birthdays in
850 a calendar year. Then, if the member is younger than age 70, the age difference
851 determined in the previous sentence is reduced by the number of years that the member
852 is younger than age 70 on the member's birthday in the calendar year that contains the
853 annuity starting date. In the case of an annuity that provides for increasing payments, the
854 requirement of this paragraph will not be violated merely because benefit payments to the
855 beneficiary increase, provided the increase is determined in the same manner for the
856 member and the beneficiary.

857 (4) Period certain and annuity features. If a distribution form includes a period certain,
858 the amount of the annuity payments payable to the beneficiary need not be reduced
859 during the period certain, but in the case of a joint and survivor annuity with a period
860 certain, the amount of the annuity payments payable to the beneficiary must satisfy
861 paragraph (3) of this subsection after the expiration of the period certain.

862 (5) Deemed satisfaction of incidental benefit rule. Except in the case of distributions
863 with respect to a member's benefit that include an ancillary death benefit described in
864 paragraph (5) of subsection (e) of this subsection, to the extent the incidental benefit
865 requirement of Regulation 1.401-1(b)(1)(i) requires a distribution, such requirement is
866 deemed to be satisfied if distributions satisfy the MDIB requirement of this subsection.

867 If the member's benefits include an ancillary death benefit described in paragraph (5) of
868 subsection (e) of this subsection, the benefits, including the ancillary death benefit, shall
869 be distributed in accordance with the incidental benefit requirement described in
870 Regulation 1.401-1(b)(1)(i) and the benefits, excluding the ancillary death benefit, shall
871 also satisfy the MDIB requirement of this subsection.

872 (g) Length of period certain.

873 (1) Distributions commencing during the member's life. The period certain for any
874 annuity distributions commencing during the life of the member with an annuity starting
875 date on or after the member's required beginning date generally is not permitted to exceed
876 the applicable distribution period for the member, determined in accordance with the
877 Uniform Lifetime Table in A-2 of Regulation 1.401(a)(9)-9, for the calendar year that
878 contains the annuity starting date; provided, however, that if the member's sole
879 beneficiary is the member's spouse, the period certain is permitted to be as long as the
880 joint life and last survivor expectancy of the member and the member's spouse, if longer
881 than the applicable distribution period for the member, provided the period certain is not
882 provided in conjunction with a life annuity under paragraph (2) of subsection (e) of this
883 section.

884 (2) Distributions commencing after the member's death.

885 (A) If annuity distributions commence after the death of the member under the life
886 expectancy rule under Code Section 401(a)(9)(B)(iii) or (iv), the period certain for any
887 distributions commencing after death shall not exceed the applicable distribution period
888 determined under A-5(b) of Regulation 1.401(a)(9)-5 for the distribution calendar year
889 that contains the annuity starting date.

890 (B) If the annuity starting date is in a calendar year before the first distribution calendar
891 year, the period certain may not exceed the life expectancy of the designated
892 beneficiary using the beneficiary's age in the year that contains the annuity starting date.

893 (h) Distributions from an annuity contract from an insurance company. The plan will not
894 fail to satisfy Code Section 401(a)(9) merely because distributions are made from an
895 annuity contract which is purchased with the member's benefit by the plan from an
896 insurance company as long as the payments satisfy the requirements of this section. If the
897 annuity contract is purchased after the required beginning date, the first payment interval
898 must begin on or before the purchase date, and the payment required for one payment
899 interval must be made no later than the end of such payment interval.

900 (i) Distribution of additional benefits after the member's first distribution calendar year.

901 (1) Annuity distributions. In the case of annuity distributions under the plan, if any
902 additional benefits accrue in a calendar year after the member's first distribution calendar
903 year, distribution of the amount that accrues in the calendar year must commence in

904 accordance with subsection (e) of this section, beginning with the first payment interval
905 ending in the calendar year immediately following the calendar year in which such
906 amount accrues.

907 (2) Administrative delay. The plan will not fail to satisfy Code Section 401(a)(9) merely
908 because there is an administrative delay in the commencement of the distribution of the
909 additional benefits accrued in a calendar year, provided that the actual payment of such
910 amount commences as soon as practicable; provided, further, that payment must
911 commence no later than the end of the first calendar year following the calendar year in
912 which the additional benefit accrues, and the total amount paid during such first calendar
913 year must be no less than the total amount that was required to be paid during that year
914 under this subsection.

915 (j) Portion of a member's benefit not vested. In the case of annuity distributions from the
916 plan, if any portion of the member's benefit is not vested as of December 31 of a
917 distribution calendar year, the portion that is not vested as of such date will be treated as
918 not having accrued for purposes of determining the required minimum distribution for that
919 distribution calendar year. When an additional portion of the employee's benefit becomes
920 vested, such portion shall be treated as an additional accrual.

921 (k) Certain distributions that commence before member's required beginning date.

922 (1) General rule. If distributions commence to a member on a date before the member's
923 required beginning date over a period permitted under Code Section 401(a)(9)(A)(ii) and
924 the distribution form is an annuity under which distributions are made in accordance with
925 the provisions of subsection (e) of this section, the annuity starting date shall be treated
926 as the required beginning date for purposes of applying the rules of subsection (o) of this
927 section and Regulation 1.401(a)(9)-2. Thus, for example, the designated beneficiary
928 distributions will be determined as of the annuity starting date. Similarly, if the member
929 dies after the annuity starting date but before the required beginning date determined
930 under A-2 of Treasury Regulation 1.401(a)(9)-2, after the member's death the remaining
931 portion of the member's interest must continue to be distributed in accordance with
932 subsection (o) of this section over the remaining period over which distributions
933 commenced. The rules in Regulation 1.401(a)(9)-3 and Code Section 401(a)(9)(B)(ii)
934 or (iii) and (iv) shall not apply.

935 (2) Period certain. If, as of the member's birthday in the year that contains the annuity
936 starting date, the age of the member is less than 70 years of age, the provisions of this
937 paragraph shall be used in applying the provisions of paragraph (1) of subsection (g) of
938 this section. The applicable distribution period for the member is the distribution period
939 for age 70, determined in accordance with the Uniform Lifetime Table in A-2 of Treasury

940 Regulation 1.401(a)(9)-9, plus the excess of 70 over the age of the member as of the
941 member's birthday in the year that contains the annuity starting date.

942 (3) Adjustment to member beneficiary age difference. For the determination of the
943 adjusted member beneficiary age difference in the case of a member whose age on the
944 annuity starting date is less than 70, the provisions of paragraph (3) of subsection (f) of
945 this section shall apply.

946 (l) Certain distributions to member's surviving spouse. If distributions commence to the
947 surviving spouse of a member over a period permitted under Code Section
948 401(a)(9)(B)(iii)(II) before the date on which distributions are required to commence and
949 the distribution form is an annuity under which distributions are made as of the date
950 distributions commence in accordance with the provisions of subsection (g) of this section,
951 distributions will be considered to have begun on the actual commencement date for
952 purposes of Code Section 401(a)(9)(B)(iv)(II). Consequently, in such case, A-5 of
953 Treasury Regulation 1.401(a)(9)-3 and Code Section 401(a)(9)(B)(ii) and (iii) shall not
954 apply upon the death of the surviving spouse as though the surviving spouse were the
955 member. Instead, the annuity distributions must continue to be made, in accordance with
956 the provisions of subsection (e) of this section, over the remaining period over which
957 distributions commenced.

958 (m) Annuitization of certain annuity contracts.

959 (1) General rule. Prior to the date that an annuity contract under an individual account
960 plan is annuitized, the interest of a member or beneficiary under that contract is treated
961 as an individual account for purposes of Code Section 401(a)(9). Thus, the required
962 minimum distribution for any year with respect to that interest is determined under
963 Regulation 1.401(a)(9)-5 rather than this subsection.

964 (2) Entire interest. For purposes of applying the rules in Regulation 1.401(a)(9)-5, the
965 entire interest under the annuity contract as of December 31 of the relevant valuation
966 calendar year is treated as the account balance for the valuation calendar year described
967 in A-3 of Code Section 1.401(a)(9)-5. The entire interest under an annuity contract is the
968 dollar amount credited to the member or beneficiary under the contract plus the actuarial
969 present value of any additional benefits, such as survivor benefits in excess of the dollar
970 amount credited to the member or beneficiary, that will be provided under the contract.
971 However, paragraph (3) of this subsection describes certain additional benefits that may
972 be disregarded in determining the member's entire interest under the annuity contract.
973 The actuarial present value of any additional benefits described under this subsection
974 shall be determined using reasonable actuarial assumptions, including reasonable
975 assumptions as to future distributions, and without regard to an individual's health.

976 (3) Exclusions.

977 (A) The actuarial present value of any additional benefits provided under an annuity
 978 contract described in paragraph (2) of this subsection may be disregarded if the sum of
 979 the dollar amount credited to the member or beneficiary under the contract and the
 980 actuarial present value of the additional benefits is no more than 120 percent of the
 981 dollar amount credited to the member or beneficiary under the contract and the contract
 982 provides only for the following additional benefits:

983 (i) Additional benefits that, in the case of a distribution, are reduced by an amount
 984 sufficient to ensure that the ratio of such sum to the dollar amount credited does not
 985 increase as a result of the distribution, and

986 (ii) An additional benefit that is the right to receive a final payment upon death that
 987 does not exceed the excess of the premiums paid less the amount of prior
 988 distributions.

989 (B) If the only additional benefit provided under the contract is the additional benefit
 990 described in division (ii) of subparagraph (A) of this paragraph, the additional benefit
 991 may be disregarded regardless of its value in relation to the dollar amount credited to
 992 the member or beneficiary under the contract.

993 (n) Change of an annuity payment period.

994 (1) In general. An annuity payment period may be changed in accordance with the
 995 provisions set forth in paragraph (2) of this subsection or in association with an annuity
 996 payment increase described in subsection (o) of this section.

997 (2) Reannuitization. If, in a stream of annuity payments that otherwise satisfies Code
 998 Section 401(a)(9), the annuity payment period is changed and the annuity payments are
 999 modified in association with that change, this modification will not cause the distributions
 1000 to fail to satisfy Code Section 401(a)(9) provided the conditions set forth in paragraph (3)
 1001 of this subsection are satisfied and:

1002 (A) The modification occurs at the time that the member retires or in connection with
 1003 a plan termination;

1004 (B) The annuity payments prior to modification are annuity payments paid over a
 1005 period certain without life contingencies; or

1006 (C) The annuity payments after modification are paid under a qualified joint and
 1007 survivor annuity over the joint lives of the member and a designated beneficiary, the
 1008 member's spouse is the sole designated beneficiary, and the modification occurs in
 1009 connection with the member becoming married to such spouse.

1010 (3) Conditions. In order to modify a stream of annuity payments in accordance with
 1011 paragraph (2) of this subsection, the following conditions must be satisfied:

- 1012 (A) The future payments under the modified stream satisfy Code Section 401(a)(9) and
1013 this subsection, determined by treating the date of the change as a new annuity starting
1014 date and the actuarial present value of the remaining payments prior to modification as
1015 the entire interest of the member;
- 1016 (B) For purposes of Code Sections 415 and 417, the modification is treated as a new
1017 annuity starting date;
- 1018 (C) After taking into account the modification, the annuity stream satisfies Code
1019 Section 415, determined at the original annuity starting date, using the interest rates and
1020 mortality tables applicable to such date; and
- 1021 (D) The end point of the period certain, if any, for any modified payment period is not
1022 later than the end point available under Code Section 401(a)(9) to the member at the
1023 original annuity starting date.
- 1024 (o) Certain annuity payment increases.
- 1025 (1) General rules. Except as otherwise provided in this subsection, all annuity payments,
1026 whether paid over a member's life, joint lives, or a period certain, shall be nonincreasing
1027 or shall increase only in accordance with one or more of the following:
- 1028 (A) With an annual percentage increase that does not exceed the percentage increase
1029 in an eligible cost-of-living index as defined in paragraph (2) of this subsection for a
1030 12 month period ending in the year during which the increase occurs or the prior year;
- 1031 (B) With a percentage increase that occurs at specified times, such as specified ages,
1032 and does not exceed the cumulative total of annual percentage increases in an eligible
1033 cost-of-living index as defined in paragraph (2) of this subsection since the annuity
1034 starting date, or if later, the date of the most recent percentage increase; provided,
1035 however, that in cases providing such a cumulative increase, an actuarial increase may
1036 not be provided to reflect the fact that increases were not provided in the interim years;
- 1037 (C) To the extent of the reduction in the amount of the member's payments to provide
1038 for a survivor benefit, but only if there is no longer a survivor benefit because the
1039 beneficiary whose life was being used to determine the period described in Code
1040 Section 401(a)(9)(A)(ii) over which payments were being made dies or is no longer the
1041 member's beneficiary pursuant to a qualified domestic relations order within the
1042 meaning of Code Section 414(p);
- 1043 (D) To pay increased benefits that result from a plan amendment;
- 1044 (E) To allow a beneficiary to convert the survivor portion of a joint and survivor
1045 annuity into a single sum distribution upon the member's death; or
- 1046 (F) To the extent increases are permitted in accordance with paragraph (3) or (4) of this
1047 subsection.

- 1048 (2) Definitions. For purposes of this subsection, the term:
- 1049 (A) 'Acceleration of payments' means a shortening of the payment period with respect
1050 to an annuity or a full or partial commutation of the future annuity payments. An
1051 increase in the payment amount will be treated as an acceleration of payments in the
1052 annuity only if the total future expected payments under the annuity, including the
1053 amount of any payment made as a result of the acceleration, is decreased as a result of
1054 the change in payment period.
- 1055 (B) 'Actuarial gain' means the difference between an amount determined using the
1056 actuarial assumptions, including investment return, mortality, expense, and other
1057 similar assumptions, used to calculate the initial payments before adjustment for any
1058 increases and the amount determined under the actual experience with respect to those
1059 factors. Actuarial gain also includes differences between the amount determined using
1060 actuarial assumptions when an annuity was purchased or commenced and such amount
1061 determined using actuarial assumptions used in calculating payments at the time the
1062 actuarial gain is determined.
- 1063 (C) 'Eligible cost-of-living index' means:
- 1064 (i) A consumer price index that is based on prices of all items, or all items excluding
1065 food and energy, and issued by the Bureau of Labor Statistics, including an index for
1066 a specific population, such as urban consumers or urban wage earners and clerical
1067 workers, and an index for a geographic area or areas, such as a given metropolitan
1068 area or state;
- 1069 (ii) A percentage adjustment based on a cost-of-living index described in
1070 subparagraph (B) of this paragraph, or a fixed percentage if less. In any year when
1071 the cost-of-living index is lower than the fixed percentage, the fixed percentage may
1072 be treated as an increase in an eligible cost-of-living index, provided it does not
1073 exceed the sum of:
- 1074 (I) The cost-of-living index for that year; and
- 1075 (II) The accumulated excess of the annual cost-of-living index from each prior year
1076 over the fixed annual percentage used in that year, reduced by any amount
1077 previously utilized under this division; or
- 1078 (iii) A percentage adjustment based on the increase in compensation for the position
1079 held by the member at the time of retirement and provided under the terms of a
1080 governmental plan within the meaning of Code Section 414(d) as in effect on April
1081 17, 2002.
- 1082 (D) 'Total future expected payments' means the total future payments expected to be
1083 made under the annuity contract as of the date of the determination, calculated using
1084 the Single Life Table in A-1 of Regulation 1.401(a)(9)-9 or, if applicable, the joint and

1085 Last Survivor Table in A-3 of in Regulation 1.401(a)(9)-9, for annuitants who are still
1086 alive, without regard to any increases in annuity payments after the date of
1087 determination and taking into account any remaining period certain.

1088 (E) 'Total value being annuitized' means:

1089 (i) In the case of annuity payments under a Section 403(a) annuity plan or under a
1090 deferred annuity purchased by a Section 401(a) trust, the value of the member's entire
1091 interest (within the meaning of subsection (m) of this section) being annuitized,
1092 valued as of the date annuity payments commence;

1093 (ii) In the case of annuity payments under an immediate annuity contract purchased
1094 by a trust for a defined benefit plan qualified under Section 401(a), the amount of the
1095 premium used to purchase the contract; and

1096 (iii) In the case of a defined contribution plan, the value of the member's account
1097 balance used to purchase an immediate annuity under the contract.

1098 (3) Additional permitted increases for annuity payments under annuity contracts
1099 purchased from insurance companies. In the case of annuity payments paid from an
1100 annuity contract purchased from an insurance company, if the total future expected
1101 payments, determined in accordance with subparagraph (D) of paragraph (2) of this
1102 subsection, exceed the total value being annuitized, within the meaning of
1103 subparagraph (E) of paragraph (2) of this subsection, the payments under the annuity will
1104 not fail to satisfy the nonincreasing payment requirement in paragraph (1) of subsection
1105 (e) of this section merely because the payments are increased in accordance with one or
1106 more of the following:

1107 (A) By a constant percentage, applied not less frequently than annually;

1108 (B) To provide a final payment upon the death of the member that does not exceed the
1109 excess of the total value being annuitized within the meaning of subparagraph (E) of
1110 paragraph (2) of this subsection over the total of payments before the death of the
1111 member;

1112 (C) As a result of dividend payments or other payments that result from actuarial gains
1113 within the meaning of subparagraph (B) of paragraph (2) of this subsection, but only
1114 if actuarial gain is measured no less frequently than annually and the resulting dividend
1115 payments or other payments are either paid no later than the year following the year for
1116 which the actuarial experience is measured or paid in the same form as the payment of
1117 the annuity over the remaining period of the annuity, beginning no later than the year
1118 following the year for which the actuarial experience is measured; and

1119 (D) An acceleration of payments under the annuity within the meaning of
1120 subparagraph (A) of paragraph (2) of this subsection.

1121 (4) Additional permitted increases for annuity payments from a qualified trust. In the
1122 case of annuity payments paid under a defined benefit plan qualified under Code Section
1123 401(a), other than annuity payments under an annuity contract purchased from an
1124 insurance company that satisfy paragraph (3) of this subsection, the payments under the
1125 annuity will not fail to satisfy the nonincreasing payment requirement in subsection (e)
1126 of this section merely because the payments are increased in accordance with one of the
1127 following:

1128 (A) By a constant percentage, applied not less frequently than annually, at a rate that
1129 is less than 5 percent per year;

1130 (B) To provide a final payment upon the death of the member that does not exceed the
1131 excess of the actuarial present value of the member's accrued benefit, within the
1132 meaning of Code Section 411(a)(7), calculated as the annuity starting date using the
1133 applicable interest rate and the applicable mortality table under Code Section 417(e),
1134 or, if greater, the total amount of member contributions, over the total of payments
1135 before the death of the member; or

1136 (C) As a result of dividend payments or other payments that result from actuarial gains
1137 within the meaning of subparagraph (B) of paragraph (2) of this subsection, but only
1138 if:

1139 (i) Actuarial gain is measured no less frequently than annually;

1140 (ii) The resulting dividend payments or other payments are either paid no later than
1141 the year following the year for which the actuarial experience is measured or paid in
1142 the same form as the payment of the annuity over the remaining period of the annuity,
1143 beginning no later than the year following the year for which the actuarial experience
1144 is measured;

1145 (iii) The actuarial gain taken into account is limited to actuarial gain from investment
1146 experience;

1147 (iv) The assumed interest used to calculate such actuarial gains is not less than 3
1148 percent; and

1149 (v) The payments are not increasing by a constant percentage as described in
1150 subparagraph (A) of this paragraph.

1151 (p) Certain payments to a surviving child. Pursuant to Code Section 401(a)(9)(F),
1152 payments under a defined benefit plan or annuity contract that are made to a member's
1153 child until such child reaches the age of majority or dies, if earlier, may be treated, for
1154 purposes of Code Section 401(a)(9), as if such payments were made to the surviving spouse
1155 to the extent they become payable to the surviving spouse upon cessation of the payments
1156 to the child. For purposes of the preceding sentence, a child may be treated as having not
1157 reached the age of majority if the child has not completed a specified course of education

1158 and is under the age of 26. In addition, a child who is disabled within the meaning of Code
1159 Section 72(m)(7) when the child reaches the age of majority may be treated as having not
1160 reached the age of majority so long as the child continues to be disabled. Thus, when
1161 payments described in this subsection become payable to the surviving spouse because the
1162 child attains the age of majority, recovers from a disabling illness, dies, or completes a
1163 specified course of education, there is not an increase in benefits under subsection (e) of
1164 this section. Likewise, the age of the child receiving such payments is not taken into
1165 consideration for purposes of the minimum incidental benefit requirement of subsection (f)
1166 of this section.

1167 (q) Annuity payments under a governmental plan.

1168 (1) Except as provided in paragraph (2) of subsection (g) of this section, annuity
1169 payments under a governmental plan within the meaning of Code Section 414(d) must
1170 satisfy this section.

1171 (2) In the case of an annuity distribution option provided under the terms of a
1172 governmental plan in effect on April 17, 2002, the plan will not fail to satisfy Code
1173 Section 401(a)(9) merely because the annuity payments do not satisfy the requirements
1174 of subsections (f) through (t) of this section, provided the distribution option satisfies
1175 Code Section 401(a)(9) based on a reasonable and good faith interpretation of the
1176 provisions of Code Section 401(a)(9).

1177 (r) Required minimum distribution rules for 2003, 2004, and 2005. A distribution from
1178 a defined benefit plan or annuity contract for calendar years 2003, 2004, and 2005 will not
1179 fail to satisfy Code Section 401(a)(9) merely because the payments do not satisfy
1180 subsections (e) through (g) of this section, provided the payments satisfy Code Section
1181 401(a)(9) based on a reasonable and good faith interpretation of the provisions of Code
1182 Section 401(a)(9). For governmental plans, this reasonable good faith standard extends to
1183 the end of the calendar year that contains the ninetieth day after the opening of the first
1184 legislative session of the General Assembly that begins on or after June 15, 2004, if such
1185 ninetieth day is later than December 31, 2005.

1186 (s) Minimum distributions. With respect to distributions under the plan made for calendar
1187 years beginning on or after January 1, 2001, but prior to October 1, 2006, the plan will
1188 apply the minimum distribution requirements of Code Section 401(a)(9) in accordance with
1189 the regulations under Code Section 401(a)(9) that were proposed on January 17, 2001,
1190 notwithstanding any provision of the plan to the contrary. Such provision shall continue
1191 in effect until the end of the last calendar year beginning before the effective date of final
1192 regulations under Code Section 401(a)(9) or such other date as may be specified in
1193 guidance published by the Internal Revenue Service. With respect to distributions under
1194 the plan made for calendar years beginning on or after October 1, 2006, the plan will apply

1195 the minimum distribution requirements of Code Section 401(a)(9) in accordance with the
1196 Final Regulations Section 1.401(a)(9)-6.

1197 (t) Contracts nontransferable. All annuity contracts under this plan shall be
1198 nontransferable when distributed.

1199 (u) Applicability. Subject to the spouse's right of consent afforded under the plan, the
1200 restrictions imposed by this section shall not apply if a member has, prior to January 1,
1201 1984, made a written designation to have retirement benefits paid in an alternative method
1202 acceptable under Code Section 401(a) in effect prior to the enactment of the federal Tax
1203 Equity and Fiscal Responsibility Act of 1982, 'TEFRA.'

1204 5.11 TIME OF DISTRIBUTION

1205 (a) Whenever a distribution is to be made, or a series of payments are to commence, the
1206 distribution or series of payments may be made or begun on such date or as soon thereafter
1207 as is practicable; provided, however, that unless a former member elects in writing to defer
1208 the receipt of benefits, such election may not result in a death benefit that is more than
1209 incidental and the payment of benefits shall begin not later than the sixtieth day after the
1210 close of the plan year in which the latest of the following events occurs:

- 1211 (1) The date on which the member attains normal retirement age;
- 1212 (2) The tenth anniversary of the year in which the member commenced participation in
1213 the plan; or
- 1214 (3) The date the member terminates service with the employer.

1215 (b) Notwithstanding the provisions of subsection (a) of this section, the failure of a
1216 member and, if applicable, the member's spouse to consent to a distribution that is
1217 immediately distributable shall be deemed to be an election to defer the commencement
1218 of payment of any benefit sufficient to satisfy this section.

1219 5.12 DISTRIBUTION FOR MINOR OR INCOMPETENT BENEFICIARY

1220 In the event a distribution is to be made to a minor or incompetent beneficiary, the
1221 administrator may direct that such distribution be paid to the legal guardian or, if none in
1222 the case of a minor beneficiary, to a parent or custodian for such beneficiary under the
1223 federal Uniform Gift to Minors Act or Gift to Minors Act if such is permitted by the laws
1224 of the state in which said beneficiary resides. Such a payment to the legal guardian, parent,
1225 or custodian of a minor or incompetent beneficiary shall fully discharge the trustee,
1226 employer, and plan from further liability on account thereof.

1227 5.13 LOCATION OF MEMBER OR BENEFICIARY UNKNOWN

1228 In the event that all, or any portion, of the distribution payable to a member or beneficiary
 1229 under the plan shall, at the member's attainment of normal retirement age, remain unpaid
 1230 solely by reason of the inability of the administrator, after sending a registered letter, return
 1231 receipt requested, to the last known address and after further diligent effort to ascertain the
 1232 whereabouts of such member or beneficiary, the amount so distributable shall be treated
 1233 as a forfeiture pursuant to the plan; provided, however, that if the value of a member's
 1234 vested benefit derived from employer and employee contributions does not exceed
 1235 \$1,000.00, then the amount distributable may be treated as a forfeiture at the time it is
 1236 determined that the whereabouts of the member or the member's beneficiary can not be
 1237 ascertained. In the event a member or beneficiary is located subsequent to the forfeiture,
 1238 such benefit shall be restored; however, a benefit that is lost by reason of escheat under
 1239 applicable state law is not treated as a forfeiture for purposes of this section nor as an
 1240 impermissible forfeiture under the Code.

1241 5.14 ASSIGNMENT OF BENEFITS; QUALIFIED DOMESTIC RELATIONS ORDER

1242 (a)(1)(A) No benefit payment or portion of the pension fund contributed by member
 1243 employees or officers shall be subject to assignment or used as collateral for any claim
 1244 or debt of any kind or character by any person, firm, or corporation whatsoever.

1245 (B) The provisions of this paragraph shall not apply to the exception of the authority
 1246 or the Macon Water Works Credit Union, referred to in this section as 'the credit union,'
 1247 and then only for money lawfully owing to the authority or the credit union by any
 1248 particular member; provided, however, that the provisions of this subparagraph shall
 1249 apply only to a member whose service with the authority has been terminated and shall
 1250 be limited to such member's benefit payments and contributions to the pension fund
 1251 made prior to the member's completion of ten years of service.

1252 (2)(A) Neither a member nor any beneficiary shall have any right to alienate, commute,
 1253 anticipate, or assign any of the benefits, payments, proceeds, or distributions of the
 1254 plan, except to the authority or the credit union, as provided in paragraph (1) of this
 1255 subsection.

1256 (B) If a member or any beneficiary attempts to dispose of any benefits or the right to
 1257 dispose of such benefits provided under the plan, or if there is an effort to seize such
 1258 benefits or the right to receive such benefits by attachment, execution, or other legal or
 1259 equitable process by any entity other than the authority or the credit union, then the
 1260 pension committee, in its discretion, may pass and transfer the benefit or right in such
 1261 shares as the pension committee determines to one or more persons from among the
 1262 beneficiaries, if any, designed by the member or to the spouse, children, or other

1263 dependents of the member. The pension committee may revoke any such appointment
1264 at any time and make further appointments to other persons, including to the member.

1265 5.15 DIRECT ROLLOVERS

1266 (a) Notwithstanding any provision of the plan to the contrary that would otherwise limit
1267 a distributee's election under this section, a distributee may elect, at the time and in the
1268 manner prescribed by the administrator, to have any portion of an eligible rollover
1269 distribution paid directly to an eligible retirement plan specified by the distributee in a
1270 direct rollover.

1271 (b) As used in this subsection, the term:

1272 (1) 'Direct rollover' means a payment by the plan to the eligible retirement plan specified
1273 by the distributee.

1274 (2) 'Distributee' includes an employee or former employee. In addition, the employee's
1275 or former employee's surviving spouse and the employee's or former employee's spouse
1276 or former spouse who is the alternate payee under a qualified domestic relations order,
1277 as defined in Code Section 414(p), are distributees with regard to the interest of the
1278 spouse or former spouse.

1279 (3) 'Eligible retirement plan' means an individual retirement account described in Code
1280 Section 408(a), an individual retirement annuity described in Code Section 408(b) other
1281 than an endowment contract, a qualified trust, an employees' trust described in Code
1282 Section 401(a) which is exempt from taxation under Code Section 501(a), an annuity plan
1283 described in Code Section 403(a), an eligible deferred compensation plan described in
1284 Code Section 457(b) which is maintained by an eligible employer described in Code
1285 Section 457(e)(1)(A), and an annuity contract described in Code Section 403(b) that
1286 accepts the distributee's eligible rollover distribution. However, in the case of an eligible
1287 rollover distribution to the surviving spouse, an eligible retirement plan is an individual
1288 retirement account or individual retirement annuity. The term shall also apply in the case
1289 of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate
1290 payee under a qualified domestic relations order, as defined in Code Section 414(p).

1291 (4) 'Eligible rollover distribution' means any distribution described in Code Section
1292 402(c)(4) and generally includes any distribution of all or any portion of the balance to
1293 the credit of the distributee, except that an eligible rollover distribution does not include
1294 any distribution that is one of a series of substantially equal periodic payments not less
1295 frequently than annually made for the life or life expectancy of the distributee or the joint
1296 lives or joint life expectancies of the distributee and the distributee's designated
1297 beneficiary, or for a specified period of ten years or more; any distribution to the extent
1298 such distribution is required under Code Section 401(a)(9); the portion of any other

1299 distribution that is not includible in gross income, determined without regard to the
 1300 exclusion for net unrealized appreciation with respect to employer securities; and any
 1301 other distribution reasonably expected to total less than \$200.00 during a year. Any
 1302 amount that is distributed on account of hardship shall not be an eligible rollover
 1303 distribution, and the distributee may not elect to have any portion of such a distribution
 1304 paid directly to an eligible retirement plan.

1305 ARTICLE VI

1306 Code Section 415 limitations.

1307 6.1 'EMPLOYER' DEFINED

1308 As used in this article, 'employer' means the employer that adopts this plan and all affiliated
 1309 employers, except that affiliated employers shall be determined pursuant to the
 1310 modification made by Code Section 415(h).

1311 6.2 ANNUAL BENEFIT

1312 (a)(1) The annual benefit otherwise payable to a member at any time shall not exceed the
 1313 maximum permissible amount. If the benefit the member would otherwise accrue in a
 1314 limitation year would produce an annual benefit in excess of the maximum permissible
 1315 amount, then the benefit must be limited or the rate of accrual reduced to a benefit that
 1316 does not exceed the maximum permissible amount.

1317 (2) If a member has made voluntary nondeductible employee contributions or mandatory
 1318 employee contributions as defined in Code Section 411(c)(2)(C) under the terms of this
 1319 plan, then the amount of such contributions is treated as an annual addition to a qualified
 1320 defined contribution plan, for purposes of paragraph (1) of this subsection and
 1321 paragraph (3) of subsection (b) of this section.

1322 (3) Prior to determining the member's actual Code Section 415 compensation for the
 1323 limitation year, the employer may determine the maximum permissible amount for a
 1324 member on the basis of a reasonable estimate of the member's Code Section 415
 1325 compensation for the limitation year, uniformly determined for all members similarly
 1326 situated. As soon as is administratively feasible after the end of the limitation year, the
 1327 maximum permissible amount for such limitation year shall be determined based on the
 1328 member's actual Code Section 415 compensation for such limitation year.

1329 (b)(1) This subsection applies if, in addition to this plan, a member is covered under
 1330 another qualified defined benefit plan maintained by the employer; a welfare benefit
 1331 fund, as defined in Code Section 419(e), maintained by the employer; an individual
 1332 medical account, as defined in Code Section 415(l)(2), maintained by the employer; or

1333 a simplified employee pension, as defined in Code Section 408(k), maintained by the
 1334 employer that provides annual additions during any limitation year.

1335 (2) If a member is, or has ever been, covered under more than one defined benefit plan
 1336 maintained by the employer, then the sum of the member's annual benefits from all such
 1337 plans may not exceed the maximum permissible amount. Where the member's employer
 1338 provided benefits under all defined benefit plans ever maintained by the employer exceed
 1339 the maximum permissible amount applicable at that age, then the rate of accrual in this
 1340 defined benefit plan shall be reduced to the extent necessary so that the total annual
 1341 benefits payable at any time under such plans will not exceed the maximum permissible
 1342 amount applicable at that age.

1343 (3) Prior to determining the member's actual Code Section 415 compensation for the
 1344 limitation year, the employer may determine the maximum permissible amount for a
 1345 member on the basis of a reasonable estimate of the member's Code Section 415
 1346 compensation for the limitation year, uniformly determined for all members similarly
 1347 situated. As soon as is administratively feasible after the end of the limitation year, the
 1348 maximum permissible amount for such limitation year shall be determined based on the
 1349 member's actual Code Section 415 compensation for such limitation year.

1350 (c) As used in this section, the term:

1351 (1) 'Annual additions' means the sum of the following amounts credited to a member's
 1352 account for the limitation year:

1353 (A) Employer contributions;

1354 (B) Forfeitures;

1355 (C) Employee contributions;

1356 (D) Amounts allocated to an individual medical account, as defined in Code Section
 1357 415(l)(2), that is part of a pension or annuity plan maintained by the employer;

1358 (E) Amounts derived from contributions paid or accrued that are attributable to
 1359 postretirement medical benefits allocated to the separate account of a key employee, as
 1360 defined in Code Section 419A(d)(3), under a welfare benefit fund maintained by the
 1361 employer; and

1362 (F) Allocations under a simplified employee pension.

1363 (2)(A) 'Annual benefit' means a retirement benefit under the plan which is payable
 1364 annually in the form of a straight life annuity. Except as otherwise provided in this
 1365 paragraph, a benefit payable in a form other than a straight life annuity must be adjusted
 1366 to an actuarially equivalent straight life annuity before applying the limitations of this
 1367 article. This straight life annuity is equal to the greater of the annuity benefit computed
 1368 using the interest rate and mortality table, or other tabular factor, specified in Section
 1369 1.2 of the plan for adjusting benefits in the same form or the annuity benefit computed

1370 using a 5 percent interest rate assumption and the applicable mortality table defined in
1371 Section 1.2 of the plan.

1372 (B) In determining the actuarially equivalent straight life annuity for a benefit form
1373 other than a nondecreasing annuity payable for a period of not less than the life of the
1374 member or, in the case of a qualified preretirement survivor annuity, the life of the
1375 surviving spouse or decreases during the life of the member merely because of (i) the
1376 death of the survivor annuitant, but only if the reduction is not below 50 percent of the
1377 annual benefit payable before the death of the survivor annuitant, or (ii) the cessation
1378 or reduction of Social Security supplements of qualified disability payments, as defined
1379 in Code Section 401(a)(11), the applicable interest rate, as defined in plan Section 1.2
1380 of the plan, will be substituted for a 5 percent interest rate assumption in subparagraph
1381 (A) of this paragraph. No actuarial adjustment to the benefit is required for (i) the value
1382 of a qualified joint and survivor annuity, (ii) benefits that are not directly related to
1383 retirement benefits, such as the qualified disability benefit, preretirement death benefits,
1384 and postretirement medical benefits, and (iii) the value of postretirement cost-of-living
1385 increases made in accordance with Code Section 415(d) and Regulation
1386 1.415-3(c)(2)(iii).

1387 (C) The 'annual benefit' does not include any benefits attributable to employee
1388 contributions or rollover contributions or the assets transferred from a qualified plan
1389 that was not maintained by the employer.

1390 (3) 'Code Section 415 compensation' means a member's Section 3401(a) wages and shall
1391 be based on the full limitation year regardless of when participation in the plan
1392 commences. With respect to limitation years beginning after December 31, 1997, Code
1393 Section 415 compensation shall include any elective deferral, as defined in Code Section
1394 402(g)(3), and any amount which is contributed or deferred by the employer at the
1395 election of the participant and which is not includible in the gross income of the
1396 participant by reason of Code Sections 125 and 457 and, for limitation years beginning
1397 on or after January 1, 2001, Code Section 132(f). For limitation years prior to January
1398 1, 1998, Code Section 415 compensation shall exclude those amounts. If a member does
1399 not participate in, and has never participated in, another qualified plan maintained by the
1400 employer; a welfare benefit fund, as defined in Code Section 419(e), maintained by the
1401 employer; an individual medical account, as defined in Code Section 415(l)(2),
1402 maintained by the employer; or a simplified employee pension, as defined in Code
1403 Section 408(k), maintained by the employer that provides annual additions during any
1404 limitation year, then subsection (b) of this section is also applicable to that member's
1405 benefits.

1406 (4) 'Defined benefit compensation limitation' means 100 percent of a member's high
1407 three-year average compensation, payable in the form of a straight life annuity. In the
1408 case of a member who has separated from service, the defined benefit compensation
1409 limitation applicable to the member will be automatically adjusted by multiplying such
1410 limitation by the cost-of-living adjustment factor prescribed by the United States
1411 Secretary of the Treasury under Code Section 415(d) in such manner as the secretary
1412 shall prescribe. The adjusted compensation limit will apply to limitation years ending
1413 with or within the calendar year of the date of the adjustment; however, because the plan
1414 is a governmental plan, this provision is not applicable.

1415 (5) 'Defined benefit dollar limitation' means \$160,000.00 automatically adjusted,
1416 effective January 1 of each year, under Code Section 415(d) in such manner as the
1417 secretary shall prescribe and payable in the form of a straight life annuity. The new
1418 limitation will apply to limitation years ending with or within the calendar year of the
1419 date of the adjustment.

1420 (6) 'High three-year average compensation' means the average Code Section 415
1421 compensation for the three consecutive years of service with the employer that produces
1422 the highest average. In the case of a member who has separated from service, the
1423 member's highest average compensation will be automatically adjusted by multiplying
1424 such compensation by the cost of living adjustment factor prescribed by the United States
1425 Secretary of the Treasury under Code Section 415(d) in such manner as the secretary
1426 shall prescribe. The adjusted compensation amount will apply to limitation years ending
1427 within the calendar year of the date of the adjustment; however, because the plan is a
1428 governmental plan, this provision is not applicable.

1429 (7) 'Maximum permissible amount' means:

1430 (A) The lesser of the defined benefit dollar limitation or the defined benefit
1431 compensation limitation, both adjusted where required, however, because the plan is
1432 a governmental plan, the defined benefit compensation limitation is not applicable;

1433 (B) If the member has fewer than ten years of participation in the plan, the defined
1434 benefit dollar limitation shall be multiplied by a fraction, the numerator of which is the
1435 number of years or part of a year of participation in the plan and the denominator of
1436 which is ten. In the case of a member who has fewer than ten years of service with the
1437 employer, the defined benefit compensation limitation shall be multiplied by a fraction,
1438 the numerator of which is the number of years or part of a year of service with the
1439 employer and the denominator of which is ten;

1440 (C) If the benefit of a member begins prior to age 62, the defined benefit dollar
1441 limitation applicable to the member at such earlier age is an annual benefit payable in
1442 the form of a straight life annuity beginning at the earlier age that is the actuarial

1443 equivalent of the defined benefit dollar limitation applicable to the member at age 62,
1444 adjusted as provided in subparagraph (D) of this paragraph, if required. The defined
1445 benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser
1446 of the actuarial equivalent at such age of the defined benefit dollar limitation computed
1447 using the interest rate and mortality table, or other tabular factor, specified in Section
1448 1.2 of the plan and the actuarial equivalent, at such age of the defined benefit dollar
1449 limitation computed using a 5 percent interest rate and the applicable mortality table as
1450 defined in Section 1.2 of the plan. Any decrease in the defined benefit dollar limitation
1451 determined in accordance with this subparagraph shall not reflect a mortality decrement
1452 if benefits are not forfeited upon the death of the member. If any benefits are forfeited
1453 upon death, the full mortality decrement is taken into account.

1454 (D) If the benefit of a member begins after the member attains age 65, the defined
1455 benefit dollar limitation applicable to the member at the later age is the annual benefit
1456 payable in the form of a straight life annuity beginning at the later age that is actuarially
1457 equivalent to the defined benefit dollar limitation applicable to the member at age 65
1458 adjusted as provided in subparagraph (E) of this paragraph, if required. The actuarial
1459 equivalent of the defined benefit dollar limitation applicable at an age after age 65 is
1460 determined as the lesser of the actuarial equivalent at such age of the defined benefit
1461 dollar limitation computed using the interest rate and mortality table, or other tabular
1462 factor, specified in Section 1.2 of the plan or the actuarial equivalent at such age of the
1463 defined benefit dollar limitation computed using a 5 percent interest rate assumption
1464 and the applicable mortality table as defined in Section 1.2 of the plan. For these
1465 purposes, mortality between age 65 and the age at which benefits commence shall be
1466 ignored; and

1467 (E) Notwithstanding any other provision of this paragraph to the contrary, the benefit
1468 otherwise accrued or payable to a member under this plan shall be deemed not to
1469 exceed the maximum permissible benefit if:

1470 (i) The retirement benefits payable for the plan year under any form of benefit with
1471 respect to such member under this plan and under all other defined benefit plans,
1472 regardless of whether terminated, ever maintained by the employer do not exceed
1473 \$1,000.00 multiplied by the member's number of years of service or parts thereof not
1474 to exceed ten with the employer; and

1475 (ii) The employer has not at any time maintained a defined contribution plan in which
1476 the member participated.

1477 (8) 'Year of participation' means a year of participation, computed to fractional parts of
1478 a year, for each accrual computation period for which the following conditions are met:

1479 (A) The member is credited with at least the number of hours of service for benefit
 1480 accrual purposes required under the terms of the plan in order to accrue a benefit for the
 1481 accrual computation period; and

1482 (B) The member is included as a member under the eligibility provisions of the plan
 1483 for at least one day of the accrual computation period.

1484 If such conditions are met, the portion of a year of participation credited to the member
 1485 shall equal the amount of benefit accrual service credited to the member for such accrual
 1486 computation period. A member who is permanently and totally disabled within the
 1487 meaning of Code Section 415(c)(3)(C)(i) for an accrual computation period shall receive
 1488 a year of participation with respect to that period. In addition, for a member to receive
 1489 a year of participation, or part thereof, for an accrual computation period, the plan must
 1490 be established no later than the last day of such accrual computation period. In no event
 1491 will more than one year of participation be credited for any 12 month period.

1492 6.3 FINAL CODE SECTION 415 REGULATIONS

1493 (a) Effective date. The limitations of this section shall apply in limitation years that begin
 1494 more than 90 days after the close of the first regular legislative session of the General
 1495 Assembly that begins on or after July 1, 2007.

1496 (b) Grandfather provision. The application of the provisions of this section shall not cause
 1497 the maximum permissible benefit for any member to be less than the member's accrued
 1498 benefit under all the defined benefit plans of the employer or a predecessor employer as of
 1499 the end of the last limitation year beginning before July 1, 2007, under provisions of the
 1500 plans that were both adopted and in effect before April 5, 2007, but only if the provisions
 1501 of such defined benefit plans that were both adopted and in effect before April 5, 2007,
 1502 satisfied the applicable requirements of statutory provisions, regulations, and other
 1503 published guidance relating to Code Section 415 in effect as of the end of the last limitation
 1504 year beginning before July 1, 2007, as described in Section 1.415(a)-1(g)(4) of the federal
 1505 Department of Treasury regulations.

1506 (c) Incorporation by reference. Notwithstanding anything contained in the plan to the
 1507 contrary, the limitations, adjustments, and other requirements prescribed in the plan shall
 1508 comply with the provisions of Code Section 415 and the final regulations promulgated
 1509 thereunder, the terms of which are specifically incorporated herein by reference as of the
 1510 effective date of this section, except where an earlier effective date is otherwise provided
 1511 in the final regulations or herein; provided, however, that where the final regulations permit
 1512 the plan to specify an alternative option to a default option set forth in the regulations, and
 1513 the alternative option was available under statutory provisions, regulations, and other
 1514 published guidance relating to Code Section 415 as in effect prior to April 5, 2007, and the

1515 plan provisions in effect as of April 5, 2007, incorporated the alternative option, said
1516 alternative option shall remain in effect as a plan provision for limitation years beginning
1517 on or after July 1, 2007, unless another permissible option is selected in this section.

1518 (d) High three-year average compensation. For purposes of the plan's provisions reflecting
1519 Code Section 415(b)(3), which is limiting the annual benefit payable to no more than 100
1520 percent of the member's average annual compensation, a member's average compensation
1521 shall be the average compensation for the three consecutive years of service, except that
1522 a member's compensation for a year of service shall not include compensation in excess
1523 of the limitation under Code Section 401(a)(17) that is in effect for the calendar year in
1524 which such year of service begins. If the member has less than three consecutive years of
1525 service, compensation shall be averaged over the member's longest consecutive period of
1526 service, including fractions of years, but not less than one year. In the case of a member
1527 who is rehired by the employer after a severance of employment, the member's high
1528 three-year average compensation shall be calculated by excluding all years for which the
1529 member performs no services for and receives no compensation from the employer (the
1530 'break period'), and by treating the years immediately preceding and following the break
1531 period as consecutive. Because the plan is a governmental plan, this provision is not
1532 applicable.

1533 (e) Adjustment to dollar limit after date of severance. In the case of a member who has
1534 had a severance from employment with the employer, the defined benefit dollar limitation
1535 applicable to the member in any limitation year beginning after the date of severance shall
1536 not be automatically adjusted under Code Section 415(d).

1537 (f) Compensation paid after severance from employment. For limitation years beginning
1538 on or after July 1, 2007, compensation for a limitation year, within the meaning of Code
1539 Section 415(c)(3), shall also include the following types of compensation paid by the later
1540 of two and one-half months after a member's severance from employment with the
1541 employer maintaining the plan or the end of the limitation year that includes the date of the
1542 member's severance from employment with the employer maintaining the plan. Any other
1543 payment of compensation paid after severance of employment that is not described in the
1544 following types of compensation is not considered compensation within the meaning of
1545 Code Section 415(c)(3), even if payment is made within the time period specified in this
1546 subsection:

1547 (1) Regular pay after severance from employment. Compensation shall include regular
1548 pay after severance of employment if:

1549 (A) The payment is regular compensation for services during the member's regular
1550 working hours or compensation for services outside the member's regular working

1551 hours, such as overtime or shift differential, commissions, bonuses, or other similar
1552 payments; and

1553 (B) The payment would have been paid to the member prior to a severance from
1554 employment if the member had continued in employment with the employer;

1555 (2) Leave cashouts and deferred compensation. Leave cashouts and deferred
1556 compensation shall be included in compensation, unless an election is made to exclude
1557 such amounts, if those amounts would have been included in the definition of
1558 compensation if they were paid prior to the member's severance from employment with
1559 the employer maintaining the plan and the amounts are either:

1560 (A) Payment for unused accrued bona fide sick, vacation, or other leave, but only if the
1561 member would have been able to use the leave if employment had continued; or

1562 (B) Received pursuant to a nonqualified unfunded deferred compensation plan, but
1563 only if the payment would have been paid to the member if the member had continued
1564 in employment with the employer and only to the extent that the payment is includible
1565 in the member's gross income;

1566 (3) Salary continuation payments for military service members. Compensation does not
1567 include payments to an individual who does not currently perform services for the
1568 employer by reason of qualified military service, as that term is used in Code Section
1569 414(u)(1), to the extent those payments do not exceed the amounts the individual would
1570 have received if the individual had continued to perform services for the employer rather
1571 than entering qualified military service; and

1572 (4) Salary continuation payments for disabled members. Compensation does not include
1573 compensation paid to a member who is permanently and totally disabled, as defined in
1574 Code Section 22(e)(3).

1575 (g) Administrative delay. Compensation for a limitation year shall not include amounts
1576 earned but not paid during the limitation year solely because of the timing of pay periods
1577 and pay dates, provided the amounts are paid during the first few weeks of the next
1578 limitation year, the amounts are included on a uniform and consistent basis with respect to
1579 all similarly situation members, and no compensation is included in more than one
1580 limitation year.

1581 ARTICLE VII

1582 Trustee.

1583 7.1 THE TRUST AGREEMENT

1584 Simultaneously with the execution and delivery of this restated plan, the authority and the
1585 trustee shall execute a separate trust agreement. Such underlying trust shall hold in trust

1586 the assets and liabilities of the plan in a manner consistent with the funding requirements
 1587 of the plan, for the exclusive benefit of the members, retired members, disabled members,
 1588 beneficiaries, contingent beneficiaries, and spouses.

1589 7.2 OWNERSHIP OF TRUST ASSETS

1590 Title to the trust fund, including all funds and investments held hereunder by the trustee
 1591 from time to time, shall be and remain in the trust and no member, retired or disabled
 1592 member, beneficiary, contingent beneficiary, spouse, or person claiming through any of
 1593 them shall have any legal or equitable rights or interest in the trust fund except to the extent
 1594 that such rights or interest may be expressly granted under the provisions of the plan or the
 1595 trust agreement.

1596 7.3 EXCLUSIVE USE

1597 In no event shall any of the principal or income of the trust fund be used for, or diverted
 1598 to, purposes other than the exclusive benefit of members, retired members, disabled
 1599 members, beneficiaries, contingent beneficiaries, and spouses, or in the payment of the
 1600 expense of the plan as set forth in the trust agreement, except as provided in the plan or
 1601 except at termination of the plan, and then only if all liabilities thereunder have been met.

1602 ARTICLE VIII

1603 Plan Amendment, Termination, or Merger.

1604 8.1 AMENDMENT

1605 (a) The authority shall have the right at any time to amend this plan subject to the
 1606 limitations of this section; provided, however, that any amendment that affects the rights,
 1607 duties, or responsibilities of the trustee or administrator may only be made with the trustee's
 1608 or administrator's written consent. Any such amendment shall become effective as
 1609 provided therein upon its execution. The trustee shall not be required to execute any such
 1610 amendment unless the amendment affects the duties of the trustee hereunder.

1611 (b) No amendment to the plan shall be effective if it authorizes or permits any part of the
 1612 trust fund, other than such part as is required to pay taxes and administration expenses, to
 1613 be used for or diverted to any purpose other than for the exclusive benefit of the members
 1614 or their beneficiaries or estates; causes any reduction in the amount credited to the account
 1615 of any member; or causes or permits any portion of the trust fund to revert to or become
 1616 property of the employer.

1617 8.2 TERMINATION

1618 (a) The authority shall have the right, subject to the approval of the General Assembly, to
1619 terminate the plan at any time by delivering to the trustee and the administrator written
1620 notice of such termination. Upon any termination full or partial, all amounts shall be
1621 allocated in accordance with the provisions of the plan and the accrued benefit, to the
1622 extent funded as of such date, of each affected member shall become fully vested and shall
1623 not thereafter be subject to forfeiture.

1624 (b) Upon full termination of the plan, the employer shall direct the distribution of the
1625 assets in the trust fund to the members in a manner which is consistent with Section 5.10
1626 of the plan. In such case, the trustee shall distribute the assets to the remaining members
1627 in the plan and to retired members in cash, in property, or through the purchase of
1628 irrevocable deferred commitments from an insurer, subject to provision for expenses of
1629 administration or liquidation. Such distributions shall be allocated in the following order
1630 to the extent of the sufficiency of such assets, basing such allocation on the accrued benefit
1631 for each such member at the date of termination of the plan:

1632 (1) To provide pensions to retired members who have retired under the plan prior to its
1633 termination without reference to the order of retirement;

1634 (2) To provide normal retirement benefits to members who have reached their normal
1635 retirement dates but have not retired on the date of termination, without reference to the
1636 order in which they reached their normal retirement date; and

1637 (3) To provide normal retirement benefits to members who have not yet reached their
1638 normal retirement date on the date of termination, in the order in which they will reach
1639 their normal retirement date. Such benefits shall be based upon accrued benefits as of the
1640 date of termination. The balance, if any, of the assets due to erroneous actuarial
1641 computation after such allocation shall be returned to the employer, but only after the
1642 satisfaction of all liabilities with respect to members and pensions under the plan;
1643 provided, however, that the foregoing provision permitting a return of excess assets to the
1644 employer shall not be treated as effective until the end of the fifth calendar year following
1645 the date such a provision was first adopted and continuously remained in effect unless the
1646 plan has always provided for a return of assets. In the event the provision is not treated
1647 as effective, excess assets shall be reallocated to the members in a nondiscriminatory
1648 manner. The portion of the excess attributable to mandatory contributions will be paid to
1649 the members who made these contributions.

ARTICLE IX

Miscellaneous.

9.1 MEMBERS' RIGHTS

This plan shall not be deemed to constitute a contract between the employer and any member or to be a consideration or an inducement for the employment of any member or employee. Nothing contained in this plan shall be deemed to give any member or employee the right to be retained in the service of the employer or to interfere with the right of the employer to discharge any member or employee at any time regardless of the effect such discharge shall have upon the employee as a member of this plan.

9.2 CONSTRUCTION OF PLAN

This plan and trust shall be construed and enforced according to the Official Code of Georgia Annotated.

9.3 GENDER AND NUMBER

Wherever any words are used herein in the masculine, feminine, or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

9.4 LEGAL ACTION

In the event any claim, suit, or proceeding is brought regarding the trust or plan or both established by the plan to which the trustee or the administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the trustee or administrator, they shall be entitled to be reimbursed from the trust fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable. Any person having any claim under the plan shall look solely to the assets of the pension fund for satisfaction. In no event shall the authority, or any of its officials, members of the pension committee, or agents, be liable in their respective individual capacities to any person whatsoever under the provisions of the system. Except for its or their willful neglect or fraud, neither the authority, the pension committee, nor any members of either body shall be in any way subject to any suit or litigation, or to any legal liability, for any cause or reason whatsoever in connection with the plan or its operation, and each member releases the authority and all of its officers and agents from any and all liability or obligation. In this respect, the authority shall be the only necessary party as to any action

1683 or proceeding involving the assets held in the pension trust, or the administration thereof,
1684 and no employees or former employees of the authority or their beneficiaries or any other
1685 person having or claiming to have an interest in the plan shall be entitled to any notice or
1686 process. Any final judgment that may be entered in any such action or proceeding shall be
1687 binding and conclusive on the parties to the plan, the authority, and all persons having or
1688 claiming to have any interest in the system.

1689 9.5 PROHIBITION AGAINST DIVERSION OF FUNDS

1690 (a) Except as provided in this article and as otherwise specifically permitted by law, it shall
1691 be impossible by operation of the plan or of the trust, by termination of either, by power
1692 of revocation or amendment, by the happening of any contingency, by collateral
1693 arrangement or by any other means, for any part of the corpus or income of any trust fund
1694 maintained pursuant to the plan or any funds contributed thereto to be used for, or diverted
1695 to, purposes other than the exclusive benefit of members, retired members, or their
1696 beneficiaries.

1697 (b) If plan benefits are provided through the distribution of annuity or insurance contracts,
1698 any refunds or credits in excess of plan benefits (on account of dividends, earnings, or other
1699 experience rating credits or surrender or cancellation credits) will be paid to the trust fund.

1700 9.6 RECEIPT AND RELEASE FOR PAYMENTS

1701 Any payment to any member, the member's legal representative or beneficiary, or any
1702 guardian or committee appointed for such member or beneficiary in accordance with the
1703 provisions of this plan shall, to the extent thereof, be in full satisfaction of all claims
1704 hereunder against the trustee and the employer.

1705 9.7 HEADINGS

1706 The headings and subheadings of this plan have been inserted for convenience of reference
1707 and are to be ignored in any construction of the provisions hereof.

1708 9.8 UNIFORMITY

1709 All provisions of this plan shall be interpreted and applied in a uniform, nondiscriminatory
1710 manner. In the event of any conflicts between the terms of this plan and any insurance
1711 contract purchased hereunder, the plan provisions shall control."

1712 SECTION 2.

1713 This Act shall become effective on July 1, 2012, only if it is determined to have been
1714 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia

1715 Annotated, the "Public Retirement Systems Standards Law"; otherwise, the plan shall not
1716 become effective and shall be automatically repealed in its entirety on July 1, 2012, as
1717 required by subsection (a) of Code Section 47-20-50.

1718

SECTION 3.

1719 All laws and parts of laws in conflict with this Act are repealed.