

The House Committee on Retirement offers the following substitute to HB 635:

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 exclude individuals whose date of hire is on and after
 6 July 1, 2012, from entering the plan and to give existing participants the right to elect to
 7 participate in a new plan established by the board of the authority provided they meet the
 8 eligibility requirements of the new plan; to change the definition of the term "disability"; to
 9 provide the actuarial equivalent basis which is stated in the document; to provide for certain
 10 limitations on compensation and benefits; to update provisions relating to required
 11 distributions; to provide for direct rollovers; to provide for related matters; to provide
 12 conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other
 13 purposes.

14 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

15 **SECTION 1.**

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

"ARTICLE I

Definitions.

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

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

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

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

1.4 'Age' means age at last birthday.

1.5 'Anniversary date' means October 1.

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

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

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

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

59 1.10 'Code' means the federal Internal Revenue Code of 1986, as amended.

60 1.11 'Compensation' means a member's total wages for federal income tax withholding
61 purposes, as defined under Code Section 3401(a), but excluding any bonuses payable to
62 such member. Such term shall include all other payments to an employee in the course
63 of the employer's trade or business for which the employer must furnish the employee a
64 written statement under Code Sections 6041, 6051, and 6052 ('W-2 Wages'), but
65 determined without regard to any rules that limit the remuneration included in wages
66 based on the nature or location of the employment or services performed. Compensation
67 shall include elective contributions that are made by the employer on behalf of a member
68 that are not includible in gross income under Code Section 125, 132(f)(4), 402(e)(3),
69 402(h)(1)(B), 403(b), 408(p), or 457(b) and shall include amounts included in the
70 employee's gross income under Code Section 402A and contributed by the employer, at
71 the employee's election, to a cafeteria plan, a qualified transportation fringe benefit plan,
72 a 401(k) plan, a Salary Reduction Simplified Employee Pension Plan (SARSEP), a
73 tax-sheltered annuity, a Savings Incentive Match Plan for Employees (SIMPLE), or a
74 Code 457(b) plan. Employee contributions 'picked up' by the authority and treated as
75 employer contributions pursuant to Code Section 414(h)(2) shall also be considered as
76 compensation. The annual compensation of each member taken into account in
77 determining benefit accruals in any plan year beginning after December 31, 2001, shall
78 not exceed \$200,000.00 or such other amount as approved by the United States Secretary
79 of the Treasury from time to time. Compensation for any employee who becomes
80 eligible or ceases to be eligible to participate during a determination period shall only
81 include compensation while the employee is an eligible employee. If, in connection with
82 the adoption of any amendment, the definition of 'compensation' has been modified, then,
83 except as otherwise provided by the plan, for plan years prior to the plan year which
84 includes the adoption date of such amendment, 'compensation' means compensation
85 determined pursuant to the terms of the plan then in effect.

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

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

91 1.14 'Early retirement date' means the first of any month following earliest retirement age
92 and before normal retirement age as provided in Section 5.3 of the plan.

93 1.15 'Effective date' means October 1, 2010, except to the extent that provisions are
94 required to apply to an earlier date or are required to apply to any other members in order
95 to comply with applicable law or the terms of the plan. The original effective date of the
96 plan was December 30, 1953. 'Date of enactment' is July 1, 2012. Plan changes in
97 paragraphs (1.14), (1.21), and (1.31) of this section, Section 4.1, and the minimum benefit
98 under Section 5.2 of the plan take effect on July 1, 2012.

99 1.16 'Eligible employee' means all employees and officers of the authority, except for:

100 (A) Elected members of the authority and the attorney-at-law for the authority;

101 (B) All casual or temporary employees and contractors and their employees, whose
102 work with the authority is casual, temporary, or by the job or contract; and

103 (C) All officers and employees whose employment with the authority is part time and
104 the majority of whose income is not derived from employment with the authority; the
105 authority is vested with full authority to solely and exclusively judge and determine the
106 application of this coverage exception; provided, however, that no officer or employee
107 first or again employed on or after July 1, 2012, shall be eligible for membership in the
108 plan.

109 1.17 'Employee' means any person who is employed by the employer.

110 1.18 'Employer' means the Macon Water Authority.

111 1.19 'Family member' means, with respect to an affected member, such member's spouse
112 and such member's lineal descendants and ascendants and their spouses, all as described
113 in Code Section 414(q)(6)(B).

114 1.20 'Fiduciary' means any person who:

115 (A) Exercises any discretionary authority or discretionary control respecting
116 management of the plan or exercises any authority or control respecting management
117 or disposition of its assets;

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

121 (C) Has any discretionary authority or discretionary responsibility in the administration
122 of the plan.

123 1.21(A) 'Final average monthly compensation' means the total compensation of a
124 member received from the authority during the last three years of service with the
125 authority, divided by 36; provided, however, that in the event of prolonged illness or
126 other justifying cause suffered by the member, such condition to be judged solely by
127 the authority, the authority may compute a member's final average monthly
128 compensation by using the three years most productive of compensation from the
129 authority, and divide such total by 36.

130 (B) Notwithstanding the provisions of subparagraph (A) of this paragraph, effective
131 December 31, 2012, 'final average monthly compensation' means the greater of:

132 (i) The total compensation of a member received from the authority during the four
133 consecutive calendar years that produce the highest average out of the last 15 calendar
134 years, divided by 48; or

135 (ii) The final average monthly compensation determined under subparagraph (A) of
136 this paragraph.

137 1.22 'Forfeiture' means that portion of a member's accrued benefit that is not vested and
138 is disposed of in accordance with the provisions of the plan. A forfeiture will occur on
139 the earlier of:

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

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

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

148 1.23 'Former member' means a person who has been a member, but who has ceased to
149 be a member for any reason and has incurred a one-year break in service.

150 1.24 'Hour of service' means an hour of service with the authority.

151 1.25 'Investment manager' means a fiduciary as described in Code Section 3(38).

152 1.26 'Joint and survivor annuity' means an annuity for the life of a member with a
153 survivor annuity for the life of the member's beneficiary which is not less than 50 percent
154 nor greater than 100 percent of the amount of the annuity payable during the joint lives
155 of the member and the member's beneficiary. The joint and survivor annuity shall be the
156 actuarial equivalent of the member's present value of vested accrued benefit.

157 1.27 'Late retirement date' means the first day of the month coinciding with or next
158 following a member's actual retirement after having reached the normal retirement date.

159 1.28 'Limitation year' means the plan year.

160 1.29 'Member' means any eligible employee who has satisfied the requirements of
161 Section 3.2 of the plan and has not for any reason become ineligible to participate further
162 in the plan.

163 1.30 'Maternity or paternity leave of absence' means an absence from work for any
164 period by reason of the employee's pregnancy, birth of the employee's child, placement
165 of a child with the employee in connection with the adoption of such child, or any

166 absence for the purpose of caring for such child for a period immediately following such
167 birth or placement.

168 1.31 'Normal retirement age' means age 63.

169 1.32 'Normal retirement date' means the first day of the month immediately next
170 following the date on which the member reached normal retirement age.

171 1.33 'One-year break in service' means a period of severance of 12 consecutive months;
172 provided, however, that in the case of an employee who is absent from work with the
173 authority for maternity or paternity reasons, the 12 consecutive month period beginning
174 on the first anniversary of the first date the employee is otherwise absent from service
175 with the authority does not constitute a one-year break in service.

176 1.34 'Permanently and totally disabled' means that a member has been determined to be
177 disabled within the meaning of the federal Social Security Act and regulations thereunder
178 and is actually drawing Social Security benefits on account of such disability.

179 1.35 'Plan' means the Macon Water Authority employees' pension plan created by this
180 Act, any and all supporting documents, and all subsequent amendments and supplements
181 thereto.

182 1.36 'Plan year' means the plan's 12 consecutive month accounting year, beginning on
183 January 1 and ending the following December 31.

184 1.37 'Present value of accrued benefit' means the actuarial equivalent lump-sum amount
185 of a member's accrued benefit at date of valuation.

186 1.38 'Regulation' means the income tax regulations as promulgated by the United States
187 Secretary of the Treasury or his or her delegate, as amended from time to time.

188 1.39 'Retired member' means a member who has become entitled to retirement benefits
189 under the plan.

190 1.40 'Retirement date' means the date as of which a member retires whether such
191 retirement occurs on a member's normal retirement date, early retirement date, or late
192 retirement date.

193 1.41 'Sponsor' means the Macon Water Authority and any successor thereto that elects
194 to assume sponsorship of this plan.

195 1.42 'Spouse' means the spouse of a married member, provided that a former spouse shall
196 be treated as a spouse or surviving spouse to the extent provided under a qualified
197 domestic relations order as described in Code Section 414(p).

198 1.43 'Straight life annuity' means an annuity payable in equal installments for the life of
199 a member that terminates upon the member's death.

200 1.44 'Terminated member' means a person who has been a member, but whose
201 employment has been terminated other than by death or retirement.

202 1.45 'Trustee' means the person, corporation, association, or combination of them who
203 accepts the appointment to execute the duties of the trustee as specifically set forth in any
204 trust agreement entered into pursuant to the plan.

205 1.46 'Trust fund' means the assets of the plan and trust as the same shall exist from time
206 to time.

207 1.47 'Vested' means the nonforfeitable portion of a member's accrued benefit.

208 1.48 'Year of service' means the computation period of 12 consecutive months during
209 which an employee is employed by the authority. In computing fractional years of
210 service, six or more service months shall be considered a year of service. No period
211 during which benefits are being paid shall be considered service or any portion of a year
212 of service. The computation period shall begin with the date on which the employee first
213 performs an hour of service (employment commencement date). Subsequent
214 computation periods shall continue to end on subsequent anniversary dates of the
215 employee's employment commencement date.

216 ARTICLE II

217 Administration.

218 2.1. POWERS AND RESPONSIBILITIES OF THE AUTHORITY.

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

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

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

- 237 (1) As provided by the then effective laws of Georgia for investments by trustees or
 238 investments by guardians without court order or proceedings;
- 239 (2) As provided by the then effective laws of Georgia for investments by trustees or
 240 investments by guardians with court order or proceedings; and
- 241 (3) Without court order and without authority or permission of any kind, other than as
 242 provided in the plan, in stocks, bonds, and securities then approved as investments of
 243 common trust funds by an active trust department of any state or national bank having a
 244 place of business in the State of Georgia.
- 245 (d) The authority may at any time, and from time to time and subject to immediate
 246 revocation, delegate the powers of investment, or any portion thereof, provided for in
 247 subsection (c) of this section to a custodian of the trust fund; but no investment by a
 248 custodian other than as provided by the then effective laws of the State of Georgia for
 249 investments by trustees or guardians without court order shall be made except upon written
 250 approval of each specific investment by the authority or by the member of the authority
 251 designated for the purpose of supervising such investments.

252 2.2. DESIGNATION OF ADMINISTRATIVE AUTHORITY.

253 The authority shall be the administrator. The authority may appoint a committee, to be
 254 known as the pension committee, composed of six members. The pension committee shall
 255 perform the duties of the administrator in accordance with the rules and regulations as may
 256 be prescribed by the authority. The authority shall elect three of its members to the pension
 257 committee who shall serve at the pleasure of the authority. The official and employee
 258 members of the plan shall elect and certify to the authority three members who shall serve
 259 on the pension committee for terms of four years and until their successors are elected. The
 260 members of the plan shall meet on the first Monday in April beginning in 1994 and each
 261 two years thereafter for the purpose of electing the employee members of the pension
 262 committee. The members of the plan shall also meet to elect any new member required to
 263 fill any unexpired term created by a vacancy in office. In the event of an equal division of
 264 opinion of the pension committee on any matter properly brought before it, the Chief Judge
 265 of the Macon Judicial Circuit, or his or her designee, shall be consulted and shall cast the
 266 deciding vote.

267 2.3. ALLOCATION AND DELEGATION OF RESPONSIBILITIES.

268 The responsibilities of the pension committee may be specified by the authority and
 269 accepted in writing by each elected member. In the event that no such delegation is made
 270 by the authority, the pension committee may allocate the responsibilities among
 271 themselves, in which event the pension committee shall notify the authority and the trustee

272 in writing of such action and specify the responsibilities of each member of the pension
273 committee. The trustee thereafter shall accept and rely upon any documents executed by
274 the appropriate member until such time as the authority or the pension committee file with
275 the trustee a written revocation of such designation.

276 2.4. POWERS AND DUTIES OF THE ADMINISTRATOR.

277 The primary responsibility of the administrator is to administer the plan for the exclusive
278 benefit of the members and their beneficiaries, subject to the specific terms of the plan.
279 The administrator shall administer the plan in accordance with its terms and shall have the
280 power and discretion to construe the terms of the plan and determine all questions arising
281 in connection with the administration, interpretation, and application of the plan. Any such
282 determination by the administrator shall be conclusive and binding upon all persons. The
283 administrator may establish procedures, correct any defect, supply any information, or
284 reconcile any inconsistency in such manner and to such extent as shall be deemed
285 necessary or advisable to carry out the purpose of the plan; provided, however, that any
286 procedure, discretionary act, interpretation, or construction shall be done in a
287 nondiscriminatory manner based upon uniform principles consistently applied, shall be
288 consistent with the intent that the plan continue to be deemed a qualified plan under the
289 terms of Code Section 401(a), and shall comply with the terms of the plan and all
290 regulations issued pursuant thereto. The administrator shall have all powers necessary or
291 appropriate to accomplish its duties under the plan. The administrator shall be charged
292 with the duties of the general administration of the plan as set forth under the terms of the
293 plan, including, but not limited to, the following:

- 294 (1) The discretion to determine all questions relating to the eligibility of an employee to
295 participate or remain a member and to receive benefits under the plan;
- 296 (2) The authority to review and settle all claims against the plan, including claims where
297 the settlement amount cannot be calculated or is not calculated in accordance with the
298 plan's benefit formula. This authority specifically permits the administrator to settle
299 disputed claims for benefits and any other disputed claims made against the plan;
- 300 (3) To compute, certify, and direct the trustee with respect to the amount and the kind
301 of benefits to which any member shall be entitled under the plan;
- 302 (4) To authorize and direct the trustee with respect to all discretionary or otherwise
303 directed disbursements from the trust fund;
- 304 (5) To maintain all necessary records for the administration of the plan;
- 305 (6) To interpret the provisions of the plan and to make and publish such rules for
306 regulation of the plan that are consistent with the terms of the plan;

- 307 (7) To determine the validity of, and take appropriate action with respect to, any
308 qualified domestic relations order received by it; and
- 309 (8) To adopt a new set of actuarial equivalent factors by resolution, which shall be
310 incorporated into the plan by reference.

311 2.5. RECORDS AND REPORTS.

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

316 2.6. APPOINTMENT OF ADVISERS.

317 The administrator, or the trustee with the consent of the administrator, may appoint
318 counsel, actuaries, specialists, advisers, agents (including nonfiduciary agents), and other
319 persons as the administrator or the trustee deems necessary or desirable in connection with
320 the administration of the plan, including, but not limited to, agents and advisers to assist
321 with the administration and management of the plan, and by so doing to provide, among
322 such other duties as the administrator may appoint, assistance with maintaining plan
323 records and the providing of investment information to the plan's investment fiduciaries
324 and to plan members.

325 2.7. INFORMATION FROM THE AUTHORITY.

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

331 2.8. PAYMENT OF EXPENSES.

332 All reasonable expenses of administration may be paid out of the plan assets unless paid
333 by the employer. Such expenses shall include any expenses incident to the functioning of
334 the administrator or any person or persons retained or appointed by any named fiduciary
335 incident to the exercise of their duties under the plan, including, but not limited to, fees of
336 accountants, actuaries, counsel, investment managers, agents (including nonfiduciary
337 agents) appointed for the purpose of assisting the administrator or the trustee in carrying
338 out the instructions of members as to the directed investment of their accounts, if permitted,
339 and other specialists and their agents, and other costs of administering the plan. Until paid,

340 the expenses shall constitute a liability of the trust fund. In addition, unless specifically
 341 prohibited under statute, regulation, or other guidance of general applicability, the
 342 administrator may charge to the account of an individual member a reasonable charge to
 343 offset the cost of making a distribution to the member, beneficiary, or alternate payee under
 344 a qualified domestic relation order, as defined in Code Section 414(p). If liquid assets of
 345 the plan are insufficient to cover the fees of the trustee or the plan administrator, then plan
 346 assets shall be liquidated to the extent necessary for such fees. In the event any part of the
 347 plan assets becomes subject to tax, all taxes incurred will be paid from the plan assets.
 348 Until paid, the expenses shall constitute a liability of the trust fund.

349 ARTICLE III

350 Eligibility.

351 3.1 CONDITIONS OF ELIGIBILITY.

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

354 3.2 EFFECTIVE DATE OF PARTICIPATION.

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

357 3.3 DETERMINATION OF ELIGIBILITY.

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

361 3.4 TERMINATION OF ELIGIBILITY.

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

366 3.5 REHIRED EMPLOYEES AND BREAKS IN SERVICE.

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

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

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

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

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

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

387 ARTICLE IV

388 Contribution and valuation.

389 4.1 PAYMENT OF EMPLOYEE CONTRIBUTIONS.

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

394 (b) Effective July 1, 2002, the authority shall credit each member with simple interest on
 395 the member's required employee contributions equal to 75 percent of the actuarial
 396 equivalent interest rate per calendar year. Prior to July 1, 2002, the authority credited each
 397 member with simple interest on the member's required employee contributions equal to
 398 6.00 percent per calendar year.

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

403 (1) Specifies that the contributions, although designated as employee contributions, are
 404 being paid by the authority in lieu of employee contributions; such action shall be applied

405 prospectively and be evidenced by either resolution or minutes of a meeting of the
406 authority for such action; or
407 (2) Does not permit a member from and after the date of the pick-up to have a cash or
408 deferred election right, within the meaning of Treas. Reg. 1.401(k)-1(a)(3), with respect
409 to designated employee contributions; members may not opt out of the pick-up or elect
410 to receive the contributed amounts directly instead of having them paid by the authority
411 to the plan.

412 4.2 PAYMENT OF EMPLOYER CONTRIBUTIONS.

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

424 4.3 ACTUARIAL METHODS.

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

430 4.4 QUALIFIED MILITARY SERVICE.

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

434 (b) In the case of a death occurring on or after January 1, 2007, if a participant dies while
435 performing qualified military service, as defined in Code Section 414(u), the participant's
436 beneficiary is entitled to any additional benefits other than benefit accruals relating to the
437 period of qualified military service provided under the plan as if the participant had
438 resumed employment and then terminated employment on account of death. The plan shall

439 credit the participant's qualified military service as service for vesting purposes, as though
 440 the participant had resumed employment under the federal Uniformed Services
 441 Employment and Reemployment Rights Act ('USERRA') immediately prior to the
 442 participant's death.

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

444 (1) An individual receiving a differential wage payment, as defined by Code Section
 445 3401(h)(2), is treated as an employee of the employer making the payment;

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

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

453 (d) Subsection (c) of this section shall apply only if all employees of the authority
 454 performing service in the uniformed services described in Code Section 3401(h)(2)(A) are
 455 entitled to receive differential wage payments, as such term is defined in Code Section
 456 3401(h)(2), on reasonably equivalent terms and, if eligible to participate in a retirement
 457 plan maintained by the authority, to make contributions or receive benefits based on the
 458 payments on reasonably equivalent terms, taking into account Code Sections 410(b)(3), (4),
 459 and (5).

460 ARTICLE V

461 Benefits.

462 5.1 NORMAL FORM OF BENEFIT.

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

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

469 5.2 NORMAL RETIREMENT BENEFITS.

470 A member's normal retirement benefit shall be a monthly pension payable in the normal
 471 form of benefit and commencing on a member's normal retirement date in an amount equal
 472 to the product of the member's final average monthly compensation multiplied by the

473 member's years of service as of the date of determination and, effective July 1, 2004,
 474 multiplied by the percentage set forth in the following table, based on the member's years
 475 of service as of the date of determination:

Years of Service	Percentage
1-30	2.000%
31	2.025%
32	2.050%
33	2.075%
34	2.100%
35	2.125%
36	2.150%
37	2.175%
38	2.200%
39	2.225%
40 or more	2.250%

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

Years of Service	Percentage
1-30	1.750%
31	1.775%
32	1.800%
33	1.825%
34	1.850%
35	1.875%
36	1.900%
37	1.925%
38	1.950%
39	1.975%
40 or more	2.000%

501 In the event the member's normal retirement benefit does not equal at least \$20.00
 502 multiplied by the number of years of service up to a maximum of ten years, then the
 503 member's normal retirement benefit shall be the product of \$20.00 multiplied by the
 504 number of years of service up to a maximum of \$200.00. In no event shall a member's
 505 accrued benefit be less than his or her accrued benefit determined as of the date of
 506 enactment based on the plan provisions in effect on that date.

507 5.3 EARLY RETIREMENT BENEFITS.

508 (a) Upon reaching 55 years of age, and prior to attaining normal retirement age, any
509 member who has 15 or more years of service may retire, at his or her option, and shall
510 receive benefits actuarially equivalent to his or her accrued benefit.

511 (b) Any member, before attaining normal retirement age, who has 25 or more years of
512 service may retire, at his or her option, and shall receive benefits actuarially equivalent to
513 his or her accrued benefit.

514 (c) Upon reaching 55 years of age, and prior to attaining normal retirement age, any
515 member who has 30 or more years of service may retire, at his or her option, and shall
516 receive benefits, without actuarial reduction, to which he or she would have been entitled
517 under the plan as if he or she had retired on his or her normal retirement date.

518 5.4 LATE RETIREMENT BENEFITS.

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

525 5.5 DISABILITY RETIREMENT BENEFITS.

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

533 (2) If a member becomes permanently and totally disabled after earning at least 30 years
534 of service, the member shall be entitled to benefits calculated in accordance with Section
535 5.2 of the plan without actuarial reduction for early commencement of benefits.

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

541 (c) The determination of disability shall be applied uniformly to all participants. In the
542 event that the federal Social Security Administration determines that a member is no longer
543 permanently and totally disabled and such member is no longer drawing Social Security
544 benefits pursuant to the federal Social Security Act, the authority may order that the
545 member return to active service with the authority and that the member's retirement benefit
546 payments be discontinued during the period of such active employment with the authority.
547 In the event the member so ordered by the authority to return to active employment with
548 the authority fails or refuses to do so within 30 days of written notice, the member's right
549 to disability retirement benefits pursuant to this section shall cease. In the event such
550 member shall return to active employment with the authority as ordered by the authority,
551 such member shall resume payment of employee contributions then required by the plan
552 and shall likewise be entitled to further service credit during the time the member remains
553 in the active employment of the authority. Such member shall not be entitled to other
554 retirement benefits of the plan except by relinquishment of any and all rights to any
555 disability retirement benefits.

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

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

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

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

566 5.6 DEATH BENEFITS.

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

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

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

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

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

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

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

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

613 5.7 TERMINATION OF EMPLOYMENT BEFORE RETIREMENT.

614 (a)(1) In the event a member terminates service with the authority, or in the event the
615 member's service is terminated for any reason other than death or cause for which the
616 member receives benefit payments elsewhere under the plan, the member may elect to
617 receive a severance benefit equal to the member's cumulative employee contributions,
618 plus simple interest credited to the member's contributions annually at the rate of 75
619 percent of the actuarial interest credit in effect during the member's time of service as
620 specified in Section 4.1 of the plan. Such interest credit shall be calculated on employee
621 contributions made by the member through the December 31 coincident with or
622 immediately preceding the member's termination of service. Such payment is in lieu of
623 all other benefits provided under the plan, and shall be the exclusive benefit provided to
624 a member who elects to take his or her severance benefit.

625 (2) Within a reasonable time period following a member's termination of service, a
626 terminated member shall be notified in writing by certified mail, return receipt requested,
627 of his or her option to forego the severance benefit described in paragraph (1) of this
628 subsection and leave the member's employee contributions in the plan's trust so as to
629 avoid the forfeiture of the member's accrued benefit related to employer contributions.
630 The terminated member shall be afforded a 12 month period, measured from the date of
631 the member's termination of service, in which to make such election. In the absence of
632 an election by the terminated member, at the expiration of such 12 month period, the
633 authority shall cause the trustee to distribute such severance benefit to the member as
634 soon as administratively practicable.

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

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

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

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

651 If the member's vested portion of the present value of accrued benefit is zero, then the
652 deemed cashout rule will apply and the member shall be deemed to have received a
653 distribution of such vested portion; provided, however, that a member's entire interest in
654 the plan shall be nonforfeitable upon the member's normal retirement age if the member
655 is an active employee employed by the employer on or after such date.

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

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

673 5.8 BENEFIT REDUCTIONS FOR PRIOR PAYMENTS.

674 Notwithstanding the provisions of Section 5.7 of the plan, a member's benefit payable
675 under the plan shall be reduced to reflect prior payments under the plan. At the time a
676 member who has received previous payments from the plan is eligible to receive additional
677 benefits, benefit payments shall resume and shall be equal to his or her recomputed benefit,
678 reduced actuarially to reflect any benefits previously received, including total benefit
679 distributions and deemed total benefit distributions; provided, however, that in no event
680 shall a recomputation of a member's benefit cause him or her to receive less in the way of
681 monthly payments than what he or she was previously receiving reduced by the actuarial

682 equivalent of any total benefit distributions, if any, paid after his or her previous retirement
683 payments ceased.

684 5.9 COST OF LIVING ADJUSTMENTS TO RETIREMENT BENEFITS.

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

687 (1) Effective January 2, 1992, the monthly benefit of every member who was retired and
688 receiving benefits prior to July 1, 1986, shall be increased by 5 percent on a one-time
689 basis. This one-time increase in benefits shall also be applicable to any beneficiary if that
690 beneficiary's member was retired and receiving benefits prior to July 1, 1986;

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

695 (3) The monthly benefit of every member who is retired and receiving benefits and of
696 every beneficiary of such member shall be increased every five years by 2 percent,
697 retroactive to April 1, 1994; this cost of living adjustment shall be effective as of October
698 1, 2004.

699 5.10 DISTRIBUTION OF BENEFITS.

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

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

713 (1) A joint and survivor annuity option will pay a reduced retirement benefit during the
714 joint lifetime of the member and his or her beneficiary. Should the beneficiary
715 predecease a member, there is no further reduction. Should the member predecease the

716 beneficiary, the same amount or a smaller amount, as the member designates at the time
717 of retirement, will continue to be paid for the remaining lifetime of the beneficiary;

718 (2) A social security option will pay an increased retirement benefit during the lifetime
719 of the member who retires other than for disability until his or her retirement benefits
720 commence under the federal Social Security Act, then a reduced retirement benefit
721 payable thereafter for life in order to produce a more level retirement income when such
722 reduced retirement benefit is added to his or her primary benefits under social security.

723 For this purpose the primary benefits under social security shall be estimated; and

724 (3) Other options, other than lump sum distributions, may be offered subject to the
725 approval of the authority.

726 (c) Notice. For any distribution notice issued in plan years beginning after December 31,
727 2006, any plan provision requiring that the notice requirements of Code Sections 402(f)
728 (the rollover notice) and 411(a)(11) (member's consent to distribution) be implemented no
729 more than 90 days prior to the annuity starting date may be implemented no more than 180
730 days prior to the annuity starting date.

731 (d) Distribution of benefits. Notwithstanding any provision in the plan to the contrary, the
732 distribution of a member's benefits, whether under the plan or through the purchase of an
733 annuity contract, shall be made in accordance with the requirements of subsections (e)
734 through (u) of this section and shall otherwise comply with Code Section 401(a)(9) and the
735 regulations thereunder, including Regulation 1.401(a)(9)-6.

736 (e)(1) General rules. Except as otherwise provided in this section, distributions of the
737 member's accrued benefit shall be paid in the form of periodic annuity payments for the
738 member's life or the joint lives of the member and beneficiary or over a period certain that
739 does not exceed the maximum length of the period certain determined in accordance with
740 subsection (g) of this section. The interval between payments for the annuity shall be
741 uniform over the entire distribution period and shall not exceed one year. Once payments
742 have commenced over a period, the period may only be changed in accordance with
743 subsection (n) of this section. Life or joint and survivor annuity payments must satisfy
744 the minimum distribution incidental benefit requirements of subsection (f) of this section.
745 Except as otherwise provided in this section, such as permitted increases described in
746 subsection (o) of this section, all payments, whether paid over a member's life, joint lives,
747 or a period certain, also shall be nonincreasing.

748 (2) Annuity commencement. Annuity payments shall commence on or before the
749 member's required beginning date, within the meaning of A-2 of Regulation
750 1.401(a)(9)-2. The first payment, which shall be made on or before the member's
751 required beginning date, shall be the payment which is required for one payment interval.
752 The second payment need not be made until the end of the next payment interval even if

753 that payment interval ends in the next calendar year. Similarly, in the case of
754 distributions commencing after death in accordance with Code Section 401(a)(9)(B)(iii)
755 and (iv), the first payment, which shall be made on or before the date determined under
756 A-3(a) or (b), whichever is applicable, of Regulation 1.401(a)(9)-3, must be the payment
757 which is required for one payment interval. Payment intervals are the periods for which
758 payments are received: bimonthly, monthly, semiannually, or annually. All benefit
759 accruals as of the last day of the first distribution calendar year must be included in the
760 calculation of the amount of annuity payments for payment intervals ending on or after
761 the member's required beginning date.

762 (3) Single sum distributions.

763 (A) In the case of a single sum distribution of a member's entire accrued benefit during
764 a distribution calendar year, the amount that is the required minimum distribution for
765 the distribution calendar year, and thus not eligible for rollover under Code Section
766 402(c), is determined using either the rule in paragraph (1) of subsection (d) of this
767 section or the rule in subparagraph (B) of paragraph (4) of this subsection.

768 (B) The portion of the single sum distribution that is a required minimum distribution
769 is determined by treating the single sum distribution as a distribution from an individual
770 account plan and treating the amount of the single sum distribution as the member's
771 account balance as of the end of the relevant valuation calendar year. If the single sum
772 distribution is being made in the calendar year containing the required beginning date
773 and the required minimum distribution for the member's first distribution calendar year
774 has not been distributed, the portion of the single sum distribution that represents the
775 required minimum distribution for the member's first and second distribution calendar
776 years is not eligible for rollover.

777 (C) The portion of the single sum distribution that is a required minimum distribution
778 may to be determined by expressing the member's benefit as an annuity that would
779 satisfy this section with an annuity starting date as of the first day of the distribution
780 calendar year for which the required minimum distribution is being determined and
781 treating one year of annuity payments as the required minimum distribution for that
782 year and not eligible for rollover. If the single sum distribution is being made in the
783 calendar year containing the required beginning date and the required minimum
784 distribution for the member's first distribution calendar year has not been made, the
785 benefit must be expressed as an annuity with an annuity starting date as of the first day
786 of the first distribution calendar year, and the payments for the first two distribution
787 calendar years would be treated as required minimum distributions and not eligible for
788 rollover.

789 (4) Death benefits. The provisions of paragraph (1) of this subsection prohibiting
 790 increasing payments under an annuity shall apply to payments made upon the death of
 791 a member; provided, however, that for purposes of this section, an ancillary death benefit
 792 described in this paragraph may be disregarded in applying that rule. Such an ancillary
 793 death benefit is excluded in determining a member's entire interest and the rules
 794 prohibiting increasing payments shall not apply to such an ancillary death benefit. A
 795 death benefit with respect to a member's benefit is an ancillary death benefit for purposes
 796 of this section if:

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

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

802 (f) Minimum distribution incidental benefit ('MDIB') requirement and incidental benefit
 803 requirement.

804 (1) Life annuity for member. If the member's benefit is paid in the form of a life annuity
 805 for the life of the member satisfying Code Section 401(a)(9) without regard to the
 806 minimum distribution incidental benefit ('MDIB') requirement, the MDIB requirement
 807 of Code Section 401(a)(9)(G) will be satisfied.

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

813 (3) Joint and survivor annuity, nonspouse beneficiary - explanation of rule. If
 814 distributions commence under a distribution option that is in the form of a joint and
 815 survivor annuity for the joint lives of the member and a beneficiary other than the
 816 member's spouse, the MDIB requirement will not be satisfied as of the date distributions
 817 commence unless under the distribution option the annuity payments to be made on and
 818 after the member's required beginning date will satisfy the conditions of this paragraph.
 819 The periodic annuity payment payable to the survivor must not at any time on and after
 820 the member's required beginning date exceed the applicable percentage of the annuity
 821 payment payable to the member using the table located in Regulation 1.401(a)(9)-6,
 822 which is incorporated herein by reference as if set forth verbatim. The applicable
 823 percentage is based on the adjusted member beneficiary age difference. The adjusted
 824 member beneficiary age difference is determined by first calculating the excess of the age
 825 of the member over the age of the beneficiary based on their ages on their birthdays in

826 a calendar year. Then, if the member is younger than age 70, the age difference
 827 determined in the previous sentence is reduced by the number of years that the member
 828 is younger than age 70 on the member's birthday in the calendar year that contains the
 829 annuity starting date. In the case of an annuity that provides for increasing payments, the
 830 requirement of this paragraph will not be violated merely because benefit payments to the
 831 beneficiary increase, provided the increase is determined in the same manner for the
 832 member and the beneficiary.

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

838 (5) Deemed satisfaction of incidental benefit rule. Except in the case of distributions
 839 with respect to a member's benefit that include an ancillary death benefit described in
 840 paragraph (5) of subsection (e) of this subsection, to the extent the incidental benefit
 841 requirement of Regulation 1.401-1(b)(1)(i) requires a distribution, such requirement is
 842 deemed to be satisfied if distributions satisfy the MDIB requirement of this subsection.
 843 If the member's benefits include an ancillary death benefit described in paragraph (5) of
 844 subsection (e) of this subsection, the benefits, including the ancillary death benefit, shall
 845 be distributed in accordance with the incidental benefit requirement described in
 846 Regulation 1.401-1(b)(1)(i) and the benefits, excluding the ancillary death benefit, shall
 847 also satisfy the MDIB requirement of this subsection.

848 (g) Length of period certain.

849 (1) Distributions commencing during the member's life. The period certain for any
 850 annuity distributions commencing during the life of the member with an annuity starting
 851 date on or after the member's required beginning date generally is not permitted to exceed
 852 the applicable distribution period for the member, determined in accordance with the
 853 Uniform Lifetime Table in A-2 of Regulation 1.401(a)(9)-9, for the calendar year that
 854 contains the annuity starting date; provided, however, that if the member's sole
 855 beneficiary is the member's spouse, the period certain is permitted to be as long as the
 856 joint life and last survivor expectancy of the member and the member's spouse, if longer
 857 than the applicable distribution period for the member, provided the period certain is not
 858 provided in conjunction with a life annuity under paragraph (2) of subsection (e) of this
 859 section.

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

861 (A) If annuity distributions commence after the death of the member under the life
 862 expectancy rule under Code Section 401(a)(9)(B)(iii) or (iv), the period certain for any

863 distributions commencing after death shall not exceed the applicable distribution period
864 determined under A-5(b) of Regulation 1.401(a)(9)-5 for the distribution calendar year
865 that contains the annuity starting date.

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

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

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

877 (1) Annuity distributions. In the case of annuity distributions under the plan, if any
878 additional benefits accrue in a calendar year after the member's first distribution calendar
879 year, distribution of the amount that accrues in the calendar year must commence in
880 accordance with subsection (e) of this section, beginning with the first payment interval
881 ending in the calendar year immediately following the calendar year in which such
882 amount accrues.

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

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

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

898 (1) General rule. If distributions commence to a member on a date before the member's
899 required beginning date over a period permitted under Code Section 401(a)(9)(A)(ii) and

900 the distribution form is an annuity under which distributions are made in accordance with
 901 the provisions of subsection (e) of this section, the annuity starting date shall be treated
 902 as the required beginning date for purposes of applying the rules of subsection (o) of this
 903 section and Regulation 1.401(a)(9)-2. Thus, for example, the designated beneficiary
 904 distributions will be determined as of the annuity starting date. Similarly, if the member
 905 dies after the annuity starting date but before the required beginning date determined
 906 under A-2 of Treasury Regulation 1.401(a)(9)-2, after the member's death the remaining
 907 portion of the member's interest must continue to be distributed in accordance with
 908 subsection (o) of this section over the remaining period over which distributions
 909 commenced. The rules in Regulation 1.401(a)(9)-3 and Code Section 401(a)(9)(B)(ii)
 910 or (iii) and (iv) shall not apply.

911 (2) Period certain. If, as of the member's birthday in the year that contains the annuity
 912 starting date, the age of the member is less than 70 years of age, the provisions of this
 913 paragraph shall be used in applying the provisions of paragraph (1) of subsection (g) of
 914 this section. The applicable distribution period for the member is the distribution period
 915 for age 70, determined in accordance with the Uniform Lifetime Table in A-2 of Treasury
 916 Regulation 1.401(a)(9)-9, plus the excess of 70 over the age of the member as of the
 917 member's birthday in the year that contains the annuity starting date.

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

922 (l) Certain distributions to member's surviving spouse. If distributions commence to the
 923 surviving spouse of a member over a period permitted under Code Section
 924 401(a)(9)(B)(iii)(II) before the date on which distributions are required to commence and
 925 the distribution form is an annuity under which distributions are made as of the date
 926 distributions commence in accordance with the provisions of subsection (g) of this section,
 927 distributions will be considered to have begun on the actual commencement date for
 928 purposes of Code Section 401(a)(9)(B)(iv)(II). Consequently, in such case, A-5 of
 929 Treasury Regulation 1.401(a)(9)-3 and Code Section 401(a)(9)(B)(ii) and (iii) shall not
 930 apply upon the death of the surviving spouse as though the surviving spouse were the
 931 member. Instead, the annuity distributions must continue to be made, in accordance with
 932 the provisions of subsection (e) of this section, over the remaining period over which
 933 distributions commenced.

934 (m) Annuitization of certain annuity contracts.

935 (1) General rule. Prior to the date that an annuity contract under an individual account
 936 plan is annuitized, the interest of a member or beneficiary under that contract is treated

937 as an individual account for purposes of Code Section 401(a)(9). Thus, the required
 938 minimum distribution for any year with respect to that interest is determined under
 939 Regulation 1.401(a)(9)-5 rather than this subsection.

940 (2) Entire interest. For purposes of applying the rules in Regulation 1.401(a)(9)-5, the
 941 entire interest under the annuity contract as of December 31 of the relevant valuation
 942 calendar year is treated as the account balance for the valuation calendar year described
 943 in A-3 of Code Section 1.401(a)(9)-5. The entire interest under an annuity contract is the
 944 dollar amount credited to the member or beneficiary under the contract plus the actuarial
 945 present value of any additional benefits, such as survivor benefits in excess of the dollar
 946 amount credited to the member or beneficiary, that will be provided under the contract.
 947 However, paragraph (3) of this subsection describes certain additional benefits that may
 948 be disregarded in determining the member's entire interest under the annuity contract.
 949 The actuarial present value of any additional benefits described under this subsection
 950 shall be determined using reasonable actuarial assumptions, including reasonable
 951 assumptions as to future distributions, and without regard to an individual's health.

952 (3) Exclusions.

953 (A) The actuarial present value of any additional benefits provided under an annuity
 954 contract described in paragraph (2) of this subsection may be disregarded if the sum of
 955 the dollar amount credited to the member or beneficiary under the contract and the
 956 actuarial present value of the additional benefits is no more than 120 percent of the
 957 dollar amount credited to the member or beneficiary under the contract and the contract
 958 provides only for the following additional benefits:

- 959 (i) Additional benefits that, in the case of a distribution, are reduced by an amount
 960 sufficient to ensure that the ratio of such sum to the dollar amount credited does not
 961 increase as a result of the distribution, and
- 962 (ii) An additional benefit that is the right to receive a final payment upon death that
 963 does not exceed the excess of the premiums paid less the amount of prior
 964 distributions.

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

969 (n) Change of an annuity payment period.

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

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

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

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

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

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

988 (A) The future payments under the modified stream satisfy Code Section 401(a)(9) and
 989 this subsection, determined by treating the date of the change as a new annuity starting
 990 date and the actuarial present value of the remaining payments prior to modification as
 991 the entire interest of the member;

992 (B) For purposes of Code Sections 415 and 417, the modification is treated as a new
 993 annuity starting date;

994 (C) After taking into account the modification, the annuity stream satisfies Code
 995 Section 415, determined at the original annuity starting date, using the interest rates and
 996 mortality tables applicable to such date; and

997 (D) The end point of the period certain, if any, for any modified payment period is not
 998 later than the end point available under Code Section 401(a)(9) to the member at the
 999 original annuity starting date.

1000 (o) Certain annuity payment increases.

1001 (1) General rules. Except as otherwise provided in this subsection, all annuity payments,
 1002 whether paid over a member's life, joint lives, or a period certain, shall be nonincreasing
 1003 or shall increase only in accordance with one or more of the following:

1004 (A) With an annual percentage increase that does not exceed the percentage increase
 1005 in an eligible cost-of-living index as defined in paragraph (2) of this subsection for a
 1006 12 month period ending in the year during which the increase occurs or the prior year;

1007 (B) With a percentage increase that occurs at specified times, such as specified ages,
 1008 and does not exceed the cumulative total of annual percentage increases in an eligible
 1009 cost-of-living index as defined in paragraph (2) of this subsection since the annuity

1010 starting date, or if later, the date of the most recent percentage increase; provided,
 1011 however, that in cases providing such a cumulative increase, an actuarial increase may
 1012 not be provided to reflect the fact that increases were not provided in the interim years;
 1013 (C) To the extent of the reduction in the amount of the member's payments to provide
 1014 for a survivor benefit, but only if there is no longer a survivor benefit because the
 1015 beneficiary whose life was being used to determine the period described in Code
 1016 Section 401(a)(9)(A)(ii) over which payments were being made dies or is no longer the
 1017 member's beneficiary pursuant to a qualified domestic relations order within the
 1018 meaning of Code Section 414(p);
 1019 (D) To pay increased benefits that result from a plan amendment;
 1020 (E) To allow a beneficiary to convert the survivor portion of a joint and survivor
 1021 annuity into a single sum distribution upon the member's death; or
 1022 (F) To the extent increases are permitted in accordance with paragraph (3) or (4) of this
 1023 subsection.

1024 (2) Definitions. For purposes of this subsection, the term:

1025 (A) 'Acceleration of payments' means a shortening of the payment period with respect
 1026 to an annuity or a full or partial commutation of the future annuity payments. An
 1027 increase in the payment amount will be treated as an acceleration of payments in the
 1028 annuity only if the total future expected payments under the annuity, including the
 1029 amount of any payment made as a result of the acceleration, is decreased as a result of
 1030 the change in payment period.

1031 (B) 'Actuarial gain' means the difference between an amount determined using the
 1032 actuarial assumptions, including investment return, mortality, expense, and other
 1033 similar assumptions, used to calculate the initial payments before adjustment for any
 1034 increases and the amount determined under the actual experience with respect to those
 1035 factors. Actuarial gain also includes differences between the amount determined using
 1036 actuarial assumptions when an annuity was purchased or commenced and such amount
 1037 determined using actuarial assumptions used in calculating payments at the time the
 1038 actuarial gain is determined.

1039 (C) 'Eligible cost-of-living index' means:

1040 (i) A consumer price index that is based on prices of all items, or all items excluding
 1041 food and energy, and issued by the Bureau of Labor Statistics, including an index for
 1042 a specific population, such as urban consumers or urban wage earners and clerical
 1043 workers, and an index for a geographic area or areas, such as a given metropolitan
 1044 area or state;
 1045 (ii) A percentage adjustment based on a cost-of-living index described in
 1046 subparagraph (B) of this paragraph, or a fixed percentage if less. In any year when

1047 the cost-of-living index is lower than the fixed percentage, the fixed percentage may
 1048 be treated as an increase in an eligible cost-of-living index, provided it does not
 1049 exceed the sum of:

1050 (I) The cost-of-living index for that year; and

1051 (II) The accumulated excess of the annual cost-of-living index from each prior year
 1052 over the fixed annual percentage used in that year, reduced by any amount
 1053 previously utilized under this division; or

1054 (iii) A percentage adjustment based on the increase in compensation for the position
 1055 held by the member at the time of retirement and provided under the terms of a
 1056 governmental plan within the meaning of Code Section 414(d) as in effect on April
 1057 17, 2002.

1058 (D) 'Total future expected payments' means the total future payments expected to be
 1059 made under the annuity contract as of the date of the determination, calculated using
 1060 the Single Life Table in A-1 of Regulation 1.401(a)(9)-9 or, if applicable, the joint and
 1061 Last Survivor Table in A-3 of in Regulation 1.401(a)(9)-9, for annuitants who are still
 1062 alive, without regard to any increases in annuity payments after the date of
 1063 determination and taking into account any remaining period certain.

1064 (E) 'Total value being annuitized' means:

1065 (i) In the case of annuity payments under a Section 403(a) annuity plan or under a
 1066 deferred annuity purchased by a Section 401(a) trust, the value of the member's entire
 1067 interest (within the meaning of subsection (m) of this section) being annuitized,
 1068 valued as of the date annuity payments commence;

1069 (ii) In the case of annuity payments under an immediate annuity contract purchased
 1070 by a trust for a defined benefit plan qualified under Section 401(a), the amount of the
 1071 premium used to purchase the contract; and

1072 (iii) In the case of a defined contribution plan, the value of the member's account
 1073 balance used to purchase an immediate annuity under the contract.

1074 (3) Additional permitted increases for annuity payments under annuity contracts
 1075 purchased from insurance companies. In the case of annuity payments paid from an
 1076 annuity contract purchased from an insurance company, if the total future expected
 1077 payments, determined in accordance with subparagraph (D) of paragraph (2) of this
 1078 subsection, exceed the total value being annuitized, within the meaning of
 1079 subparagraph (E) of paragraph (2) of this subsection, the payments under the annuity will
 1080 not fail to satisfy the nonincreasing payment requirement in paragraph (1) of subsection
 1081 (e) of this section merely because the payments are increased in accordance with one or
 1082 more of the following:

1083 (A) By a constant percentage, applied not less frequently than annually;

1084 (B) To provide a final payment upon the death of the member that does not exceed the
 1085 excess of the total value being annuitized within the meaning of subparagraph (E) of
 1086 paragraph (2) of this subsection over the total of payments before the death of the
 1087 member;

1088 (C) As a result of dividend payments or other payments that result from actuarial gains
 1089 within the meaning of subparagraph (B) of paragraph (2) of this subsection, but only
 1090 if actuarial gain is measured no less frequently than annually and the resulting dividend
 1091 payments or other payments are either paid no later than the year following the year for
 1092 which the actuarial experience is measured or paid in the same form as the payment of
 1093 the annuity over the remaining period of the annuity, beginning no later than the year
 1094 following the year for which the actuarial experience is measured; and

1095 (D) An acceleration of payments under the annuity within the meaning of
 1096 subparagraph (A) of paragraph (2) of this subsection.

1097 (4) Additional permitted increases for annuity payments from a qualified trust. In the
 1098 case of annuity payments paid under a defined benefit plan qualified under Code Section
 1099 401(a), other than annuity payments under an annuity contract purchased from an
 1100 insurance company that satisfy paragraph (3) of this subsection, the payments under the
 1101 annuity will not fail to satisfy the nonincreasing payment requirement in subsection (e)
 1102 of this section merely because the payments are increased in accordance with one of the
 1103 following:

1104 (A) By a constant percentage, applied not less frequently than annually, at a rate that
 1105 is less than 5 percent per year;

1106 (B) To provide a final payment upon the death of the member that does not exceed the
 1107 excess of the actuarial present value of the member's accrued benefit, within the
 1108 meaning of Code Section 411(a)(7), calculated as the annuity starting date using the
 1109 applicable interest rate and the applicable mortality table under Code Section 417(e),
 1110 or, if greater, the total amount of member contributions, over the total of payments
 1111 before the death of the member; or

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:

1115 (i) Actuarial gain is measured no less frequently than annually;

1116 (ii) The resulting dividend payments or other payments are either paid no later than
 1117 the year following the year for which the actuarial experience is measured or paid in
 1118 the same form as the payment of the annuity over the remaining period of the annuity,
 1119 beginning no later than the year following the year for which the actuarial experience
 1120 is measured;

- 1121 (iii) The actuarial gain taken into account is limited to actuarial gain from investment
1122 experience;
- 1123 (iv) The assumed interest used to calculate such actuarial gains is not less than 3
1124 percent; and
- 1125 (v) The payments are not increasing by a constant percentage as described in
1126 subparagraph (A) of this paragraph.
- 1127 (p) Certain payments to a surviving child. Pursuant to Code Section 401(a)(9)(F),
1128 payments under a defined benefit plan or annuity contract that are made to a member's
1129 child until such child reaches the age of majority or dies, if earlier, may be treated, for
1130 purposes of Code Section 401(a)(9), as if such payments were made to the surviving spouse
1131 to the extent they become payable to the surviving spouse upon cessation of the payments
1132 to the child. For purposes of the preceding sentence, a child may be treated as having not
1133 reached the age of majority if the child has not completed a specified course of education
1134 and is under the age of 26. In addition, a child who is disabled within the meaning of Code
1135 Section 72(m)(7) when the child reaches the age of majority may be treated as having not
1136 reached the age of majority so long as the child continues to be disabled. Thus, when
1137 payments described in this subsection become payable to the surviving spouse because the
1138 child attains the age of majority, recovers from a disabling illness, dies, or completes a
1139 specified course of education, there is not an increase in benefits under subsection (e) of
1140 this section. Likewise, the age of the child receiving such payments is not taken into
1141 consideration for purposes of the minimum incidental benefit requirement of subsection (f)
1142 of this section.
- 1143 (q) Annuity payments under a governmental plan.
- 1144 (1) Except as provided in paragraph (2) of subsection (g) of this section, annuity
1145 payments under a governmental plan within the meaning of Code Section 414(d) must
1146 satisfy this section.
- 1147 (2) In the case of an annuity distribution option provided under the terms of a
1148 governmental plan in effect on April 17, 2002, the plan will not fail to satisfy Code
1149 Section 401(a)(9) merely because the annuity payments do not satisfy the requirements
1150 of subsections (f) through (t) of this section, provided the distribution option satisfies
1151 Code Section 401(a)(9) based on a reasonable and good faith interpretation of the
1152 provisions of Code Section 401(a)(9).
- 1153 (r) Required minimum distribution rules for 2003, 2004, and 2005. A distribution from
1154 a defined benefit plan or annuity contract for calendar years 2003, 2004, and 2005 will not
1155 fail to satisfy Code Section 401(a)(9) merely because the payments do not satisfy
1156 subsections (e) through (g) of this section, provided the payments satisfy Code Section
1157 401(a)(9) based on a reasonable and good faith interpretation of the provisions of Code

1158 Section 401(a)(9). For governmental plans, this reasonable good faith standard extends to
 1159 the end of the calendar year that contains the ninetieth day after the opening of the first
 1160 legislative session of the General Assembly that begins on or after June 15, 2004, if such
 1161 ninetieth day is later than December 31, 2005.

1162 (s) Minimum distributions. With respect to distributions under the plan made for calendar
 1163 years beginning on or after January 1, 2001, but prior to October 1, 2006, the plan will
 1164 apply the minimum distribution requirements of Code Section 401(a)(9) in accordance with
 1165 the regulations under Code Section 401(a)(9) that were proposed on January 17, 2001,
 1166 notwithstanding any provision of the plan to the contrary. Such provision shall continue
 1167 in effect until the end of the last calendar year beginning before the effective date of final
 1168 regulations under Code Section 401(a)(9) or such other date as may be specified in
 1169 guidance published by the Internal Revenue Service. With respect to distributions under
 1170 the plan made for calendar years beginning on or after October 1, 2006, the plan will apply
 1171 the minimum distribution requirements of Code Section 401(a)(9) in accordance with the
 1172 Final Regulations Section 1.401(a)(9)-6.

1173 (t) Contracts nontransferable. All annuity contracts under this plan shall be
 1174 nontransferable when distributed.

1175 (u) Applicability. Subject to the spouse's right of consent afforded under the plan, the
 1176 restrictions imposed by this section shall not apply if a member has, prior to January 1,
 1177 1984, made a written designation to have retirement benefits paid in an alternative method
 1178 acceptable under Code Section 401(a) in effect prior to the enactment of the federal Tax
 1179 Equity and Fiscal Responsibility Act of 1982, 'TEFRA.'

1180 5.11 TIME OF DISTRIBUTION.

1181 (a) Whenever a distribution is to be made, or a series of payments are to commence, the
 1182 distribution or series of payments may be made or begun on such date or as soon thereafter
 1183 as is practicable; provided, however, that unless a former member elects in writing to defer
 1184 the receipt of benefits, such election may not result in a death benefit that is more than
 1185 incidental and the payment of benefits shall begin not later than the sixtieth day after the
 1186 close of the plan year in which the latest of the following events occurs:

- 1187 (1) The date on which the member attains normal retirement age;
- 1188 (2) The tenth anniversary of the year in which the member commenced participation in
 1189 the plan; or
- 1190 (3) The date the member terminates service with the employer.

1191 (b) Notwithstanding the provisions of subsection (a) of this section, the failure of a
 1192 member and, if applicable, the member's spouse to consent to a distribution that is

1193 immediately distributable shall be deemed to be an election to defer the commencement
1194 of payment of any benefit sufficient to satisfy this section.

1195 5.12 DISTRIBUTION FOR MINOR OR INCOMPETENT BENEFICIARY.

1196 In the event a distribution is to be made to a minor or incompetent beneficiary, the
1197 administrator may direct that such distribution be paid to the legal guardian or, if none in
1198 the case of a minor beneficiary, to a parent or custodian for such beneficiary under the
1199 federal Uniform Gift to Minors Act or Gift to Minors Act if such is permitted by the laws
1200 of the state in which said beneficiary resides. Such a payment to the legal guardian, parent,
1201 or custodian of a minor or incompetent beneficiary shall fully discharge the trustee,
1202 employer, and plan from further liability on account thereof.

1203 5.13 LOCATION OF MEMBER OR BENEFICIARY UNKNOWN.

1204 In the event that all, or any portion, of the distribution payable to a member or beneficiary
1205 under the plan shall, at the member's attainment of normal retirement age, remain unpaid
1206 solely by reason of the inability of the administrator, after sending a registered letter, return
1207 receipt requested, to the last known address and after further diligent effort to ascertain the
1208 whereabouts of such member or beneficiary, the amount so distributable shall be treated
1209 as a forfeiture pursuant to the plan; provided, however, that if the value of a member's
1210 vested benefit derived from employer and employee contributions does not exceed
1211 \$1,000.00, then the amount distributable may be treated as a forfeiture at the time it is
1212 determined that the whereabouts of the member or the member's beneficiary can not be
1213 ascertained. In the event a member or beneficiary is located subsequent to the forfeiture,
1214 such benefit shall be restored; however, a benefit that is lost by reason of escheat under
1215 applicable state law is not treated as a forfeiture for purposes of this section nor as an
1216 impermissible forfeiture under the Code.

1217 5.14 ASSIGNMENT OF BENEFITS; QUALIFIED DOMESTIC RELATIONS ORDER.

1218 (a)(1)(A) No benefit payment or portion of the pension fund contributed by member
1219 employees or officers shall be subject to assignment or used as collateral for any claim
1220 or debt of any kind or character by any person, firm, or corporation whatsoever.

1221 (B) The provisions of this paragraph shall not apply to the exception of the authority
1222 or the Macon Water Works Credit Union, referred to in this section as 'the credit union,'
1223 and then only for money lawfully owing to the authority or the credit union by any
1224 particular member; provided, however, that the provisions of this subparagraph shall
1225 apply only to a member whose service with the authority has been terminated and shall

1226 be limited to such member's benefit payments and contributions to the pension fund
1227 made prior to the member's completion of ten years of service.

1228 (2)(A) Neither a member nor any beneficiary shall have any right to alienate, commute,
1229 anticipate, or assign any of the benefits, payments, proceeds, or distributions of the
1230 plan, except to the authority or the credit union, as provided in paragraph (1) of this
1231 subsection.

1232 (B) If a member or any beneficiary attempts to dispose of any benefits or the right to
1233 dispose of such benefits provided under the plan, or if there is an effort to seize such
1234 benefits or the right to receive such benefits by attachment, execution, or other legal or
1235 equitable process by any entity other than the authority or the credit union, then the
1236 pension committee, in its discretion, may pass and transfer the benefit or right in such
1237 shares as the pension committee determines to one or more persons from among the
1238 beneficiaries, if any, designed by the member or to the spouse, children, or other
1239 dependents of the member. The pension committee may revoke any such appointment
1240 at any time and make further appointments to other persons, including to the member.

1241 5.15 DIRECT ROLLOVERS.

1242 (a) Notwithstanding any provision of the plan to the contrary that would otherwise limit
1243 a distributee's election under this section, a distributee may elect, at the time and in the
1244 manner prescribed by the administrator, to have any portion of an eligible rollover
1245 distribution paid directly to an eligible retirement plan specified by the distributee in a
1246 direct rollover.

1247 (b) As used in this subsection, the term:

1248 (1) 'Direct rollover' means a payment by the plan to the eligible retirement plan specified
1249 by the distributee.

1250 (2) 'Distributee' includes an employee or former employee. In addition, the employee's
1251 or former employee's surviving spouse and the employee's or former employee's spouse
1252 or former spouse who is the alternate payee under a qualified domestic relations order,
1253 as defined in Code Section 414(p), are distributees with regard to the interest of the
1254 spouse or former spouse.

1255 (3) 'Eligible retirement plan' means an individual retirement account described in Code
1256 Section 408(a), an individual retirement annuity described in Code Section 408(b) other
1257 than an endowment contract, a qualified trust, an employees' trust described in Code
1258 Section 401(a) which is exempt from taxation under Code Section 501(a), an annuity plan
1259 described in Code Section 403(a), an eligible deferred compensation plan described in
1260 Code Section 457(b) which is maintained by an eligible employer described in Code
1261 Section 457(e)(1)(A), and an annuity contract described in Code Section 403(b) that

1262 accepts the distributee's eligible rollover distribution. However, in the case of an eligible
 1263 rollover distribution to the surviving spouse, an eligible retirement plan is an individual
 1264 retirement account or individual retirement annuity. The term shall also apply in the case
 1265 of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate
 1266 payee under a qualified domestic relations order, as defined in Code Section 414(p).

1267 (4) 'Eligible rollover distribution' means any distribution described in Code Section
 1268 402(c)(4) and generally includes any distribution of all or any portion of the balance to
 1269 the credit of the distributee, except that an eligible rollover distribution does not include
 1270 any distribution that is one of a series of substantially equal periodic payments not less
 1271 frequently than annually made for the life or life expectancy of the distributee or the joint
 1272 lives or joint life expectancies of the distributee and the distributee's designated
 1273 beneficiary, or for a specified period of ten years or more; any distribution to the extent
 1274 such distribution is required under Code Section 401(a)(9); the portion of any other
 1275 distribution that is not includible in gross income, determined without regard to the
 1276 exclusion for net unrealized appreciation with respect to employer securities; and any
 1277 other distribution reasonably expected to total less than \$200.00 during a year. Any
 1278 amount that is distributed on account of hardship shall not be an eligible rollover
 1279 distribution, and the distributee may not elect to have any portion of such a distribution
 1280 paid directly to an eligible retirement plan.

1281 ARTICLE VI

1282 Code Section 415 limitations.

1283 6.1 'EMPLOYER' DEFINED.

1284 As used in this article, 'employer' means the employer that adopts this plan and all affiliated
 1285 employers, except that affiliated employers shall be determined pursuant to the
 1286 modification made by Code Section 415(h).

1287 6.2 ANNUAL BENEFIT.

1288 (a)(1) The annual benefit otherwise payable to a member at any time shall not exceed the
 1289 maximum permissible amount. If the benefit the member would otherwise accrue in a
 1290 limitation year would produce an annual benefit in excess of the maximum permissible
 1291 amount, then the benefit must be limited or the rate of accrual reduced to a benefit that
 1292 does not exceed the maximum permissible amount.

1293 (2) If a member has made voluntary nondeductible employee contributions or mandatory
 1294 employee contributions as defined in Code Section 411(c)(2)(C) under the terms of this
 1295 plan, then the amount of such contributions is treated as an annual addition to a qualified

1296 defined contribution plan, for purposes of paragraph (1) of this subsection and
1297 paragraph (3) of subsection (b) of this section.

1298 (3) Prior to determining the member's actual Code Section 415 compensation for the
1299 limitation year, the employer may determine the maximum permissible amount for a
1300 member on the basis of a reasonable estimate of the member's Code Section 415
1301 compensation for the limitation year, uniformly determined for all members similarly
1302 situated. As soon as is administratively feasible after the end of the limitation year, the
1303 maximum permissible amount for such limitation year shall be determined based on the
1304 member's actual Code Section 415 compensation for such limitation year.

1305 (b)(1) This subsection applies if, in addition to this plan, a member is covered under
1306 another qualified defined benefit plan maintained by the employer; a welfare benefit
1307 fund, as defined in Code Section 419(e), maintained by the employer; an individual
1308 medical account, as defined in Code Section 415(l)(2), maintained by the employer; or
1309 a simplified employee pension, as defined in Code Section 408(k), maintained by the
1310 employer that provides annual additions during any limitation year.

1311 (2) If a member is, or has ever been, covered under more than one defined benefit plan
1312 maintained by the employer, then the sum of the member's annual benefits from all such
1313 plans may not exceed the maximum permissible amount. Where the member's employer
1314 provided benefits under all defined benefit plans ever maintained by the employer exceed
1315 the maximum permissible amount applicable at that age, then the rate of accrual in this
1316 defined benefit plan shall be reduced to the extent necessary so that the total annual
1317 benefits payable at any time under such plans will not exceed the maximum permissible
1318 amount applicable at that age.

1319 (3) Prior to determining the member's actual Code Section 415 compensation for the
1320 limitation year, the employer may determine the maximum permissible amount for a
1321 member on the basis of a reasonable estimate of the member's Code Section 415
1322 compensation for the limitation year, uniformly determined for all members similarly
1323 situated. As soon as is administratively feasible after the end of the limitation year, the
1324 maximum permissible amount for such limitation year shall be determined based on the
1325 member's actual Code Section 415 compensation for such limitation year.

1326 (c) As used in this section, the term:

1327 (1) 'Annual additions' means the sum of the following amounts credited to a member's
1328 account for the limitation year:

1329 (A) Employer contributions;

1330 (B) Forfeitures;

1331 (C) Employee contributions;

- 1332 (D) Amounts allocated to an individual medical account, as defined in Code Section
1333 415(l)(2), that is part of a pension or annuity plan maintained by the employer;
- 1334 (E) Amounts derived from contributions paid or accrued that are attributable to
1335 postretirement medical benefits allocated to the separate account of a key employee, as
1336 defined in Code Section 419A(d)(3), under a welfare benefit fund maintained by the
1337 employer; and
- 1338 (F) Allocations under a simplified employee pension.
- 1339 (2)(A) 'Annual benefit' means a retirement benefit under the plan which is payable
1340 annually in the form of a straight life annuity. Except as otherwise provided in this
1341 paragraph, a benefit payable in a form other than a straight life annuity must be adjusted
1342 to an actuarially equivalent straight life annuity before applying the limitations of this
1343 article. This straight life annuity is equal to the greater of the annuity benefit computed
1344 using the interest rate and mortality table, or other tabular factor, specified in Section
1345 1.2 of the plan for adjusting benefits in the same form or the annuity benefit computed
1346 using a 5 percent interest rate assumption and the applicable mortality table defined in
1347 Section 1.2 of the plan.
- 1348 (B) In determining the actuarially equivalent straight life annuity for a benefit form
1349 other than a nondecreasing annuity payable for a period of not less than the life of the
1350 member or, in the case of a qualified preretirement survivor annuity, the life of the
1351 surviving spouse or decreases during the life of the member merely because of (i) the
1352 death of the survivor annuitant, but only if the reduction is not below 50 percent of the
1353 annual benefit payable before the death of the survivor annuitant, or (ii) the cessation
1354 or reduction of Social Security supplements of qualified disability payments, as defined
1355 in Code Section 401(a)(11), the applicable interest rate, as defined in plan Section 1.2
1356 of the plan, will be substituted for a 5 percent interest rate assumption in subparagraph
1357 (A) of this paragraph. No actuarial adjustment to the benefit is required for (i) the value
1358 of a qualified joint and survivor annuity, (ii) benefits that are not directly related to
1359 retirement benefits, such as the qualified disability benefit, preretirement death benefits,
1360 and postretirement medical benefits, and (iii) the value of postretirement cost-of-living
1361 increases made in accordance with Code Section 415(d) and Regulation
1362 1.415-3(c)(2)(iii).
- 1363 (C) The 'annual benefit' does not include any benefits attributable to employee
1364 contributions or rollover contributions or the assets transferred from a qualified plan
1365 that was not maintained by the employer.
- 1366 (3) 'Code Section 415 compensation' means a member's Section 3401(a) wages and shall
1367 be based on the full limitation year regardless of when participation in the plan
1368 commences. With respect to limitation years beginning after December 31, 1997, Code

1369 Section 415 compensation shall include any elective deferral, as defined in Code Section
1370 402(g)(3), and any amount which is contributed or deferred by the employer at the
1371 election of the participant and which is not includible in the gross income of the
1372 participant by reason of Code Sections 125 and 457 and, for limitation years beginning
1373 on or after January 1, 2001, Code Section 132(f). For limitation years prior to January
1374 1, 1998, Code Section 415 compensation shall exclude those amounts. If a member does
1375 not participate in, and has never participated in, another qualified plan maintained by the
1376 employer; a welfare benefit fund, as defined in Code Section 419(e), maintained by the
1377 employer; an individual medical account, as defined in Code Section 415(l)(2),
1378 maintained by the employer; or a simplified employee pension, as defined in Code
1379 Section 408(k), maintained by the employer that provides annual additions during any
1380 limitation year, then subsection (b) of this section is also applicable to that member's
1381 benefits.

1382 (4) 'Defined benefit compensation limitation' means 100 percent of a member's high
1383 three-year average compensation, payable in the form of a straight life annuity. In the
1384 case of a member who has separated from service, the defined benefit compensation
1385 limitation applicable to the member will be automatically adjusted by multiplying such
1386 limitation by the cost-of-living adjustment factor prescribed by the United States
1387 Secretary of the Treasury under Code Section 415(d) in such manner as the secretary
1388 shall prescribe. The adjusted compensation limit will apply to limitation years ending
1389 with or within the calendar year of the date of the adjustment; however, because the plan
1390 is a governmental plan, this provision is not applicable.

1391 (5) 'Defined benefit dollar limitation' means \$160,000.00 automatically adjusted,
1392 effective January 1 of each year, under Code Section 415(d) in such manner as the
1393 secretary shall prescribe and payable in the form of a straight life annuity. The new
1394 limitation will apply to limitation years ending with or within the calendar year of the
1395 date of the adjustment.

1396 (6) 'High three-year average compensation' means the average Code Section 415
1397 compensation for the three consecutive years of service with the employer that produces
1398 the highest average. In the case of a member who has separated from service, the
1399 member's highest average compensation will be automatically adjusted by multiplying
1400 such compensation by the cost of living adjustment factor prescribed by the United States
1401 Secretary of the Treasury under Code Section 415(d) in such manner as the secretary
1402 shall prescribe. The adjusted compensation amount will apply to limitation years ending
1403 within the calendar year of the date of the adjustment; however, because the plan is a
1404 governmental plan, this provision is not applicable.

1405 (7) 'Maximum permissible amount' means:

1406 (A) The lesser of the defined benefit dollar limitation or the defined benefit
1407 compensation limitation, both adjusted where required, however, because the plan is
1408 a governmental plan, the defined benefit compensation limitation is not applicable;

1409 (B) If the member has fewer than ten years of participation in the plan, the defined
1410 benefit dollar limitation shall be multiplied by a fraction, the numerator of which is the
1411 number of years or part of a year of participation in the plan and the denominator of
1412 which is ten. In the case of a member who has fewer than ten years of service with the
1413 employer, the defined benefit compensation limitation shall be multiplied by a fraction,
1414 the numerator of which is the number of years or part of a year of service with the
1415 employer and the denominator of which is ten;

1416 (C) If the benefit of a member begins prior to age 62, the defined benefit dollar
1417 limitation applicable to the member at such earlier age is an annual benefit payable in
1418 the form of a straight life annuity beginning at the earlier age that is the actuarial
1419 equivalent of the defined benefit dollar limitation applicable to the member at age 62,
1420 adjusted as provided in subparagraph (D) of this paragraph, if required. The defined
1421 benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser
1422 of the actuarial equivalent at such age of the defined benefit dollar limitation computed
1423 using the interest rate and mortality table, or other tabular factor, specified in Section
1424 1.2 of the plan and the actuarial equivalent, at such age of the defined benefit dollar
1425 limitation computed using a 5 percent interest rate and the applicable mortality table as
1426 defined in Section 1.2 of the plan. Any decrease in the defined benefit dollar limitation
1427 determined in accordance with this subparagraph shall not reflect a mortality decrement
1428 if benefits are not forfeited upon the death of the member. If any benefits are forfeited
1429 upon death, the full mortality decrement is taken into account.

1430 (D) If the benefit of a member begins after the member attains age 65, the defined
1431 benefit dollar limitation applicable to the member at the later age is the annual benefit
1432 payable in the form of a straight life annuity beginning at the later age that is actuarially
1433 equivalent to the defined benefit dollar limitation applicable to the member at age 65
1434 adjusted as provided in subparagraph (E) of this paragraph, if required. The actuarial
1435 equivalent of the defined benefit dollar limitation applicable at an age after age 65 is
1436 determined as the lesser of the actuarial equivalent at such age of the defined benefit
1437 dollar limitation computed using the interest rate and mortality table, or other tabular
1438 factor, specified in Section 1.2 of the plan or the actuarial equivalent at such age of the
1439 defined benefit dollar limitation computed using a 5 percent interest rate assumption
1440 and the applicable mortality table as defined in Section 1.2 of the plan. For these
1441 purposes, mortality between age 65 and the age at which benefits commence shall be
1442 ignored; and

1443 (E) Notwithstanding any other provision of this paragraph to the contrary, the benefit
 1444 otherwise accrued or payable to a member under this plan shall be deemed not to
 1445 exceed the maximum permissible benefit if:

1446 (i) The retirement benefits payable for the plan year under any form of benefit with
 1447 respect to such member under this plan and under all other defined benefit plans,
 1448 regardless of whether terminated, ever maintained by the employer do not exceed
 1449 \$1,000.00 multiplied by the member's number of years of service or parts thereof not
 1450 to exceed ten with the employer; and

1451 (ii) The employer has not at any time maintained a defined contribution plan in which
 1452 the member participated.

1453 (8) 'Year of participation' means a year of participation, computed to fractional parts of
 1454 a year, for each accrual computation period for which the following conditions are met:

1455 (A) The member is credited with at least the number of hours of service for benefit
 1456 accrual purposes required under the terms of the plan in order to accrue a benefit for the
 1457 accrual computation period; and

1458 (B) The member is included as a member under the eligibility provisions of the plan
 1459 for at least one day of the accrual computation period.

1460 If such conditions are met, the portion of a year of participation credited to the member
 1461 shall equal the amount of benefit accrual service credited to the member for such accrual
 1462 computation period. A member who is permanently and totally disabled within the
 1463 meaning of Code Section 415(c)(3)(C)(i) for an accrual computation period shall receive
 1464 a year of participation with respect to that period. In addition, for a member to receive
 1465 a year of participation, or part thereof, for an accrual computation period, the plan must
 1466 be established no later than the last day of such accrual computation period. In no event
 1467 will more than one year of participation be credited for any 12 month period.

1468 6.3 FINAL CODE SECTION 415 REGULATIONS.

1469 (a) Effective date. The limitations of this section shall apply in limitation years that begin
 1470 more than 90 days after the close of the first regular legislative session of the General
 1471 Assembly that begins on or after July 1, 2007.

1472 (b) Grandfather provision. The application of the provisions of this section shall not cause
 1473 the maximum permissible benefit for any member to be less than the member's accrued
 1474 benefit under all the defined benefit plans of the employer or a predecessor employer as of
 1475 the end of the last limitation year beginning before July 1, 2007, under provisions of the
 1476 plans that were both adopted and in effect before April 5, 2007, but only if the provisions
 1477 of such defined benefit plans that were both adopted and in effect before April 5, 2007,
 1478 satisfied the applicable requirements of statutory provisions, regulations, and other

1479 published guidance relating to Code Section 415 in effect as of the end of the last limitation
1480 year beginning before July 1, 2007, as described in Section 1.415(a)-1(g)(4) of the federal
1481 Department of Treasury regulations.

1482 (c) Incorporation by reference. Notwithstanding anything contained in the plan to the
1483 contrary, the limitations, adjustments, and other requirements prescribed in the plan shall
1484 comply with the provisions of Code Section 415 and the final regulations promulgated
1485 thereunder, the terms of which are specifically incorporated herein by reference as of the
1486 effective date of this section, except where an earlier effective date is otherwise provided
1487 in the final regulations or herein; provided, however, that where the final regulations permit
1488 the plan to specify an alternative option to a default option set forth in the regulations, and
1489 the alternative option was available under statutory provisions, regulations, and other
1490 published guidance relating to Code Section 415 as in effect prior to April 5, 2007, and the
1491 plan provisions in effect as of April 5, 2007, incorporated the alternative option, said
1492 alternative option shall remain in effect as a plan provision for limitation years beginning
1493 on or after July 1, 2007, unless another permissible option is selected in this section.

1494 (d) High three-year average compensation. For purposes of the plan's provisions reflecting
1495 Code Section 415(b)(3), which is limiting the annual benefit payable to no more than 100
1496 percent of the member's average annual compensation, a member's average compensation
1497 shall be the average compensation for the three consecutive years of service, except that
1498 a member's compensation for a year of service shall not include compensation in excess
1499 of the limitation under Code Section 401(a)(17) that is in effect for the calendar year in
1500 which such year of service begins. If the member has less than three consecutive years of
1501 service, compensation shall be averaged over the member's longest consecutive period of
1502 service, including fractions of years, but not less than one year. In the case of a member
1503 who is rehired by the employer after a severance of employment, the member's high
1504 three-year average compensation shall be calculated by excluding all years for which the
1505 member performs no services for and receives no compensation from the employer (the
1506 'break period'), and by treating the years immediately preceding and following the break
1507 period as consecutive. Because the plan is a governmental plan, this provision is not
1508 applicable.

1509 (e) Adjustment to dollar limit after date of severance. In the case of a member who has
1510 had a severance from employment with the employer, the defined benefit dollar limitation
1511 applicable to the member in any limitation year beginning after the date of severance shall
1512 not be automatically adjusted under Code Section 415(d).

1513 (f) Compensation paid after severance from employment. For limitation years beginning
1514 on or after July 1, 2007, compensation for a limitation year, within the meaning of Code
1515 Section 415(c)(3), shall also include the following types of compensation paid by the later

1516 of two and one-half months after a member's severance from employment with the
 1517 employer maintaining the plan or the end of the limitation year that includes the date of the
 1518 member's severance from employment with the employer maintaining the plan. Any other
 1519 payment of compensation paid after severance of employment that is not described in the
 1520 following types of compensation is not considered compensation within the meaning of
 1521 Code Section 415(c)(3), even if payment is made within the time period specified in this
 1522 subsection:

1523 (1) Regular pay after severance from employment. Compensation shall include regular
 1524 pay after severance of employment if:

1525 (A) The payment is regular compensation for services during the member's regular
 1526 working hours or compensation for services outside the member's regular working
 1527 hours, such as overtime or shift differential, commissions, bonuses, or other similar
 1528 payments; and

1529 (B) The payment would have been paid to the member prior to a severance from
 1530 employment if the member had continued in employment with the employer;

1531 (2) Leave cashouts and deferred compensation. Leave cashouts and deferred
 1532 compensation shall be included in compensation, unless an election is made to exclude
 1533 such amounts, if those amounts would have been included in the definition of
 1534 compensation if they were paid prior to the member's severance from employment with
 1535 the employer maintaining the plan and the amounts are either:

1536 (A) Payment for unused accrued bona fide sick, vacation, or other leave, but only if the
 1537 member would have been able to use the leave if employment had continued; or

1538 (B) Received pursuant to a nonqualified unfunded deferred compensation plan, but
 1539 only if the payment would have been paid to the member if the member had continued
 1540 in employment with the employer and only to the extent that the payment is includible
 1541 in the member's gross income;

1542 (3) Salary continuation payments for military service members. Compensation does not
 1543 include payments to an individual who does not currently perform services for the
 1544 employer by reason of qualified military service, as that term is used in Code Section
 1545 414(u)(1), to the extent those payments do not exceed the amounts the individual would
 1546 have received if the individual had continued to perform services for the employer rather
 1547 than entering qualified military service; and

1548 (4) Salary continuation payments for disabled members. Compensation does not include
 1549 compensation paid to a member who is permanently and totally disabled, as defined in
 1550 Code Section 22(e)(3).

1551 (g) Administrative delay. Compensation for a limitation year shall not include amounts
 1552 earned but not paid during the limitation year solely because of the timing of pay periods

1553 and pay dates, provided the amounts are paid during the first few weeks of the next
1554 limitation year, the amounts are included on a uniform and consistent basis with respect to
1555 all similarly situation members, and no compensation is included in more than one
1556 limitation year.

1557 ARTICLE VII

1558 Trustee.

1559 7.1 THE TRUST AGREEMENT.

1560 Simultaneously with the execution and delivery of this restated plan, the authority and the
1561 trustee shall execute a separate trust agreement. Such underlying trust shall hold in trust
1562 the assets and liabilities of the plan in a manner consistent with the funding requirements
1563 of the plan, for the exclusive benefit of the members, retired members, disabled members,
1564 beneficiaries, contingent beneficiaries, and spouses.

1565 7.2 OWNERSHIP OF TRUST ASSETS.

1566 Title to the trust fund, including all funds and investments held hereunder by the trustee
1567 from time to time, shall be and remain in the trust and no member, retired or disabled
1568 member, beneficiary, contingent beneficiary, spouse, or person claiming through any of
1569 them shall have any legal or equitable rights or interest in the trust fund except to the extent
1570 that such rights or interest may be expressly granted under the provisions of the plan or the
1571 trust agreement.

1572 7.3 EXCLUSIVE USE.

1573 In no event shall any of the principal or income of the trust fund be used for, or diverted
1574 to, purposes other than the exclusive benefit of members, retired members, disabled
1575 members, beneficiaries, contingent beneficiaries, and spouses, or in the payment of the
1576 expense of the plan as set forth in the trust agreement, except as provided in the plan or
1577 except at termination of the plan, and then only if all liabilities thereunder have been met.

1578 ARTICLE VIII

1579 Plan Amendment, Termination, or Merger.

1580 8.1 AMENDMENT.

1581 (a) The authority shall have the right at any time to amend this plan subject to the
1582 limitations of this section; provided, however, that any amendment that affects the rights,
1583 duties, or responsibilities of the trustee or administrator may only be made with the trustee's

1584 or administrator's written consent. Any such amendment shall become effective as
1585 provided therein upon its execution. The trustee shall not be required to execute any such
1586 amendment unless the amendment affects the duties of the trustee hereunder. Such an
1587 amendment shall not cause a reduction in any current or future benefit payable under the
1588 plan.

1589 (b) No amendment to the plan shall be effective if it authorizes or permits any part of the
1590 trust fund, other than such part as is required to pay taxes and administration expenses, to
1591 be used for or diverted to any purpose other than for the exclusive benefit of the members
1592 or their beneficiaries or estates; causes any reduction in the amount credited to the account
1593 of any member; or causes or permits any portion of the trust fund to revert to or become
1594 property of the employer.

1595 8.2 TERMINATION.

1596 (a) The authority shall have the right, subject to the approval of the General Assembly, to
1597 terminate the plan at any time by delivering to the trustee and the administrator written
1598 notice of such termination. Upon any termination full or partial, all amounts shall be
1599 allocated in accordance with the provisions of the plan and the accrued benefit, to the
1600 extent funded as of such date, of each affected member shall become fully vested and shall
1601 not thereafter be subject to forfeiture.

1602 (b) Upon full termination of the plan, the employer shall direct the distribution of the
1603 assets in the trust fund to the members in a manner which is consistent with Section 5.10
1604 of the plan. In such case, the trustee shall distribute the assets to the remaining members
1605 in the plan and to retired members in cash, in property, or through the purchase of
1606 irrevocable deferred commitments from an insurer, subject to provision for expenses of
1607 administration or liquidation. Such distributions shall be allocated in the following order
1608 to the extent of the sufficiency of such assets, basing such allocation on the accrued benefit
1609 for each such member at the date of termination of the plan:

1610 (1) To provide pensions to retired members who have retired under the plan prior to its
1611 termination without reference to the order of retirement;

1612 (2) To provide normal retirement benefits to members who have reached their normal
1613 retirement dates but have not retired on the date of termination, without reference to the
1614 order in which they reached their normal retirement date; and

1615 (3) To provide normal retirement benefits to members who have not yet reached their
1616 normal retirement date on the date of termination, in the order in which they will reach
1617 their normal retirement date. Such benefits shall be based upon accrued benefits as of the
1618 date of termination. The balance, if any, of the assets due to erroneous actuarial
1619 computation after such allocation shall be returned to the employer, but only after the

1620 satisfaction of all liabilities with respect to members and pensions under the plan;
1621 provided, however, that the foregoing provision permitting a return of excess assets to the
1622 employer shall not be treated as effective until the end of the fifth calendar year following
1623 the date such a provision was first adopted and continuously remained in effect unless the
1624 plan has always provided for a return of assets. In the event the provision is not treated
1625 as effective, excess assets shall be reallocated to the members in a nondiscriminatory
1626 manner. The portion of the excess attributable to mandatory contributions will be paid to
1627 the members who made these contributions.

1628 ARTICLE IX

1629 Miscellaneous.

1630 9.1 MEMBERS' RIGHTS.

1631 This plan shall not be deemed to constitute a contract between the employer and any
1632 member or to be a consideration or an inducement for the employment of any member or
1633 employee. Nothing contained in this plan shall be deemed to give any member or
1634 employee the right to be retained in the service of the employer or to interfere with the right
1635 of the employer to discharge any member or employee at any time regardless of the effect
1636 such discharge shall have upon the employee as a member of this plan.

1637 9.2 CONSTRUCTION OF PLAN.

1638 This plan and trust shall be construed and enforced according to the Official Code of
1639 Georgia Annotated.

1640 9.3 GENDER AND NUMBER.

1641 Wherever any words are used herein in the masculine, feminine, or neuter gender, they
1642 shall be construed as though they were also used in another gender in all cases where they
1643 would so apply, and whenever any words are used herein in the singular or plural form,
1644 they shall be construed as though they were also used in the other form in all cases where
1645 they would so apply.

1646 9.4 LEGAL ACTION.

1647 In the event any claim, suit, or proceeding is brought regarding the trust or plan or both
1648 established by the plan to which the trustee or the administrator may be a party, and such
1649 claim, suit, or proceeding is resolved in favor of the trustee or administrator, they shall be
1650 entitled to be reimbursed from the trust fund for any and all costs, attorney's fees, and other
1651 expenses pertaining thereto incurred by them for which they shall have become liable. Any

1652 person having any claim under the plan shall look solely to the assets of the pension fund
1653 for satisfaction. In no event shall the authority, or any of its officials, members of the
1654 pension committee, or agents, be liable in their respective individual capacities to any
1655 person whatsoever under the provisions of the system. Except for its or their willful
1656 neglect or fraud, neither the authority, the pension committee, nor any members of either
1657 body shall be in any way subject to any suit or litigation, or to any legal liability, for any
1658 cause or reason whatsoever in connection with the plan or its operation, and each member
1659 releases the authority and all of its officers and agents from any and all liability or
1660 obligation. In this respect, the authority shall be the only necessary party as to any action
1661 or proceeding involving the assets held in the pension trust, or the administration thereof,
1662 and no employees or former employees of the authority or their beneficiaries or any other
1663 person having or claiming to have an interest in the plan shall be entitled to any notice or
1664 process. Any final judgment that may be entered in any such action or proceeding shall be
1665 binding and conclusive on the parties to the plan, the authority, and all persons having or
1666 claiming to have any interest in the system.

1667 9.5 PROHIBITION AGAINST DIVERSION OF FUNDS.

1668 (a) Except as provided in this article and as otherwise specifically permitted by law, it shall
1669 be impossible by operation of the plan or of the trust, by termination of either, by power
1670 of revocation or amendment, by the happening of any contingency, by collateral
1671 arrangement or by any other means, for any part of the corpus or income of any trust fund
1672 maintained pursuant to the plan or any funds contributed thereto to be used for, or diverted
1673 to, purposes other than the exclusive benefit of members, retired members, or their
1674 beneficiaries.

1675 (b) If plan benefits are provided through the distribution of annuity or insurance contracts,
1676 any refunds or credits in excess of plan benefits (on account of dividends, earnings, or other
1677 experience rating credits or surrender or cancellation credits) will be paid to the trust fund.

1678 9.6 RECEIPT AND RELEASE FOR PAYMENTS.

1679 Any payment to any member, the member's legal representative or beneficiary, or any
1680 guardian or committee appointed for such member or beneficiary in accordance with the
1681 provisions of this plan shall, to the extent thereof, be in full satisfaction of all claims
1682 hereunder against the trustee and the employer.

1683 9.7 HEADINGS.

1684 The headings and subheadings of this plan have been inserted for convenience of reference
1685 and are to be ignored in any construction of the provisions hereof.

1686 9.8 UNIFORMITY.

1687 All provisions of this plan shall be interpreted and applied in a uniform, nondiscriminatory
1688 manner. In the event of any conflicts between the terms of this plan and any insurance
1689 contract purchased hereunder, the plan provisions shall control.

1690 9.9 TRANSFER.

1691 Any active member of the plan shall have the option to cease participation in the plan and
1692 transfer the value of his or her earned benefits to any future plan offered by the authority;
1693 provided, however, that any such transfer of participation shall be subject to the provisions
1694 of such other plan. Any such transfer shall be entirely voluntary."

1695 **SECTION 2.**

1696 This Act shall become effective on July 1, 2012, only if it is determined to have been
1697 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
1698 Annotated, the "Public Retirement Systems Standards Law"; otherwise, the plan shall not
1699 become effective and shall be automatically repealed in its entirety on July 1, 2012, as
1700 required by subsection (a) of Code Section 47-20-50.

1701 **SECTION 3.**

1702 All laws and parts of laws in conflict with this Act are repealed.