

**CITY COUNCIL
ATLANTA, GEORGIA**

11-O-0673

AN ORDINANCE AND CHARTER AMENDMENT

BY COUNCILMEMBERS HOWARD SHOOK, IVORY LEE YOUNG, JR., AND H. LAMAR WILLIS

AS SUBSTITUTED AND AMENDED BY THE FINANCE EXECUTIVE COMMITTEE

**AN ORDINANCE AND CHARTER AMENDMENT TO
AMEND THE CHARTER OF THE CITY OF ATLANTA,
GEORGIA, 1996 GA LAWS P. 4469, ET SEQ., ADOPTED
UNDER AND BY VIRTUE OF THE AUTHORITY OF THE
MUNICIPAL HOME RULE ACT OF 1965, O.C.G.A.
SECTION 36-35-1 ET SEQ., AS AMENDED, BY
AMENDING PART 1 (CHARTER AND RELATED LAWS),
SUBPART A (CHARTER), ARTICLE III (EXECUTIVE),
CHAPTER 5 (CIVIL SERVICE SYSTEM), SECTION 3-507
(MODIFICATION OF PENSION PLANS), SO AS TO
MODIFY LANGUAGE THAT IMPROPERLY
DELEGATES LEGISLATIVE AUTHORITY; AND FOR
OTHER PURPOSES.**

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

WHEREAS, the authority to modify the pension plans is thusly given to the Atlanta City Council as part of its duties and responsibilities as the legislative body of the City of Atlanta; and

WHEREAS, the boards of trustees of the pension plans have, through legal action, declared and established their independence from the City of Atlanta; and

WHEREAS, currently, Section 3-507(2)(b) improperly delegates the legislative authority of the Atlanta City Council to modify the pension plans by requiring a written recommendation of the board of trustees of each affected plan prior to a vote by the City Council; and

WHEREAS, it is the desire of the City of Atlanta to amend Sections 3-507(2)(b) to discontinue this improper delegation of legislative authority.

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NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA,

GEORGIA AS FOLLOWS:

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

Sec. 3-507. - Modification of pension plans.

- (1) Any other provisions in the Charter notwithstanding, any pension law modification shall be effected only by ordinance adopted by at least two-thirds of the total membership of the council and duly approved by the mayor;
- (2) Any such ordinance shall be considered by the council only after receipt of:
 - a. An investigation by an independent actuary of any such proposed modification, evidenced by a written report from such actuary which shall include, but not be limited to, such actuary's analysis of the funding requirements relating to any such modification and the opinion of such actuary as to the propriety of any such modification. Any such opinion must state that such modification is in conformity with applicable state laws governing the funding requirements for modifications to such pension plans. Such opinion shall be accompanied by the written recommendations of the city attorney and chief financial officer;
 - b. A written recommendation concerning such ordinance adopted by at least two-thirds of the membership of the board of trustees of each of the respective pension funds affected by such modification; such recommendation shall be considered by, but shall not be binding upon, the council;
 - c. Any such ordinance modifying the Act approved August 13, 1927 (Ga. L. 1927, p. 265 et seq., as amended) and affecting employees of the Atlanta Board of Education shall become effective as to such employees only after such modification is adopted by a majority of the total membership of the Atlanta Board of Education.
- (3) No substitute or amendment to any ordinances presented to the council hereunder shall be considered without a subsequent investigation of such proposed substitute or amendment by an independent actuary as provided in (2)(a), hereinabove, and the recommendation of the board of trustees of the respective pension fund affected by such modification as set forth in (2)(b), hereinabove;
- (4) No ordinance which modifies any of the aforesaid pension laws and has a fiscal impact on the pension systems established by such laws shall be adopted by the council or approved by the mayor until adequate provision for

funding such modification has been made to defray the fiscal impact of such modification;

be amended to make the following deletions and insertions, such that Part I, Subpart A, Article III, Chapter 5, Section 3-507 of the Charter of the City of Atlanta, Georgia, 1996 Ga. Laws P. 4469, et seq., shall read as follows:

Sec. 3-507. - Modification of pension plans.

- (1) Any other provisions in the Charter notwithstanding, any pension law modification shall be effected only by ordinance adopted by at least two-thirds of the total membership of the council and duly approved by the mayor;
- (2) Any such ordinance shall be considered for final action by the council only after receipt of:
 - a. AH-Receipt of an investigation by an independent actuary of any such proposed modification, evidenced by a written report from such actuary which shall include, but not be limited to, such actuary's analysis of the funding requirements relating to any such modification and the opinion of such actuary as to the propriety of any such modification. Any such opinion must state that such modification is in conformity with applicable state laws governing the funding requirements for modifications to such pension plans. Such opinion shall be accompanied by the written recommendations of the city attorney and chief financial officer;
 - b. A written communication to the board of trustees of each of the respective pension funds affected by such modification to provide notice of the proposed modification of a provision of the pension plan and to request their non-binding recommendation in favor or against the proposed modification within 45 days from the date of introduction of the legislation, unless extended by Ordinance
 - c. Any such ordinance modifying the Act approved August 13, 1927 (Ga. L. 1927, p. 265 et seq., as amended) and affecting employees of the Atlanta Board of Education shall become effective as to such employees only after such modification is adopted by a majority of the total membership of the Atlanta Board of Education.
- (3) No substitute or amendment to any ordinances presented to the council hereunder shall be considered without a subsequent investigation of such proposed substitute or amendment by an independent actuary and recommendations of the city attorney and chief financial officer as provided in

(2)(a), hereinabove, and the communication providing notice and requesting a recommendation from the boards of trustees of the respective pension fund affected by such modification as set forth in (2)(b),

hereinabove;

- (4) No ordinance which modifies any of the aforesaid pension laws and has a fiscal impact on the pension systems established by such laws shall be adopted by the council or approved by the mayor until adequate provision for funding such modification has been made to defray the fiscal impact of such modification;

Section 2: That a copy of this proposed amendment to the Charter of the City of Atlanta, Georgia 1996 Ga. Laws P. 4496 et seq., as amended, shall be filed in the Office of the Municipal Clerk of the City of Atlanta and in the Offices of the Clerks of the Superior courts of Fulton and DeKalb Counties and that a "Notice of Proposed Amendment to the Charter of the City of Atlanta, Georgia," attached hereto and marked "Exhibit A" and made a part of this ordinance, be published in the official organ of the county of the legal situs of the City of Atlanta or in a newspaper of general circulation in the City of Atlanta once a week for three weeks within a period of 60 days immediately preceding its final adoption, and that a copy of said advertisement be attached to this ordinance prior to its final adoption by the Council of the City of Atlanta.

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

A true copy,

Deputy Clerk

ADOPTED as amended by the Atlanta City Council July 18, 2011
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403 July 27, 2011