

DEKALB COUNTY PENSION CODE (as of 01/01/2016)

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Sec. 901. - Definitions.

Officers, employees and deputies, as the terms are used herein, shall include elected county officials, officers and employees of DeKalb County, employees and deputies of county officers by whatever name or title employed or deputized, and all other persons including officers and employees of the county who perform any service for the benefit of DeKalb County for which they are paid a salary, including part-time employees, regular employees, deputies and elected officials who are not contributing to any other pension plan of the State of Georgia or any institution, bureau or department thereof. Notwithstanding anything to the contrary in this Act [article], in the event DeKalb County, along with the State of Georgia or any institution, bureau or department thereof, contributes to the salary of any aforesaid officer, employee or deputy, such officer, employee or deputy may participate in the county retirement system but only to the extent of that participant's county paid salary and, in such case, only the county paid portion of such salary shall be considered compensation for the purpose of determining benefits and payment of contributions under this act [article].

In the event DeKalb County, along with the State of Georgia, contributes to the salaries of the officers, deputies and employees aforesaid, and such person is under the system of pension and retirement pay for officers, deputies and employees of DeKalb County as of January 1, 1971, the total salaries of said officer, employee or deputy from all such sources shall be counted as compensation for the purpose of determining benefits and payment of contributions. DeKalb County shall withhold monthly the required contribution by said employee to the pension fund as outlined in this act [article] for such amounts of income; and it is further provided that DeKalb County shall pay into the pension fund the employer's contribution for the total amount of said income at the rate required under this act [article].

Notwithstanding anything to the contrary in this act, with regard to any DeKalb County State Court judge that participates in a retirement plan of the State of Georgia, if such judge's yearly salary exceeds the amount allowed by law to be applied toward a state retirement plan, then the judge may participate in the county retirement system, but only to the extent of the portion of such judge's salary that exceeds the salary allowed by law to be applied toward the state retirement system (hereinafter referred to as "additional salary") and, in such case, only the additional salary shall be considered compensation for the purpose of determining benefits and payments of contributions under this act. Any judge to whom this paragraph applies may be entitled to credit against his service for all periods of time his salary as a state court judge exceeded that allowed by law to be applied toward a state retirement plan, provided such judge shall restore to the pension fund all sums that would have been deducted from the additional salary as pension contributions, together with interest thereon at the rate of eight (8) percent per annum. Said sum may be paid in equal installments over a period not to exceed twenty-four (24) months; provided, however, should such judge become eligible for county pension benefits before this amount is fully paid, the amount due the pension fund by such judge shall be deducted from such benefits at a rate to be determined by the pension board.

Nothing in this section 901 shall be interpreted to mean that any current or former participant of this plan may opt out of participation in this plan after he has made his first contribution. When and if a judge or other officer, employee or deputy who is receiving or will receive payments of salary from DeKalb County and the State of Georgia (or any institution, bureau or department thereof) first becomes eligible to participate in this plan, that individual may make a one-time irrevocable election to opt out of participation in this plan, but may do so only before he makes his first contribution.

Beginning as of June 26, 2013, the terms "spouse" and "surviving spouse" as those terms are used herein, mean the individual to whom a participant is lawfully married under the laws of any state or other jurisdiction where the marriage was performed, without regard to gender or the state of residence. "Spouse" or "surviving spouse" shall not include domestic partners or other similar relationships that do not satisfy a state or other jurisdictional requirement for legal marriage.

Sec. 902. - Creation of board; members, vacancies.

There is hereby authorized and created the pension board of DeKalb County to consist of nine (9) members, one (1) of whom shall be the chief executive officer of DeKalb County, two (2) of whom shall be elected by the board of commissioners of said county, one (1) of whom shall be the director of finance of DeKalb County, one (1) of whom shall be the director of the merit system of DeKalb County, two (2) of whom shall be officers, employees or deputies of DeKalb County subject to the provision of this article, elected at an election to be held on the second Monday in January, 1964, and every fourth year thereafter, on the second Monday in January. Effective for board elections on and after January 1, 2016, an officer, employee or deputy must have at least seven (7) years of service under this plan to qualify for election to the pension board. Said election shall be conducted by the use of secret ballots at some convenient place in or near the courthouse in DeKalb County and such other places as the pension board shall designate at least sixty (60) days prior to the election, under three (3) managers appointed by the board of registrations and elections. The said ballot shall be printed and designate the incumbent, if any, and shall provide adequate space for write-in candidates. The polling places shall be open from 8:00 a.m. until 6:00 p.m., and every officer and employee and deputy of DeKalb County subject to the provisions of this article shall be entitled to one (1) vote at said election. Notwithstanding any provision hereof, no department, office or agency of DeKalb County shall be represented by more than one (1) officer, employee or deputy employed in such department, office or agency. In the event two (2) or more candidates employed by a department, office or agency shall receive a number of votes higher than candidates employed by other departments, offices or agencies, only the candidate in a single department, office or agency who receives the highest number of votes shall be certified as a member of the board. The eighth member shall be a retired officer, employee or deputy of DeKalb County subject to the provision of this article and elected by the retired participants of the current or former DeKalb County pension plans. Said election of a retiree member shall be conducted by the use of secret, mailed ballots, mailed by the board of registrations and elections to all retirees not less than fifteen (15) calendar days prior to the election date. Said ballot shall be printed and designate the incumbent, if any, shall provide adequate space for write-in candidate, shall be imprinted with the date by which the ballot must be returned and shall be accompanied by a pre-addressed return mail envelope and a brief description of each candidate's qualifications and DeKalb County experience. The pension board shall establish rules as to the length of said description and the information that shall be included. Only retiree ballots returned by United States mail in individual envelopes and received by the board of registrations and elections on or prior to the election date shall be counted. The election date for retired members shall be the same as the election date for actively employed members when filling a full term. When filling an unexpired retired member term, the election date shall be determined by the pension board, provided that the date shall be no less than fifteen (15) days after mailing of the ballots and shall be printed on the ballots. The ninth member of the board shall be appointed by the voting members and shall be experienced in business or professional work. In case of a tie, the board of commissioners of DeKalb County shall appoint the ninth member. The elected and appointed members of the board shall serve terms of four

(4) years and until their successors are elected and qualified. All members of the board shall take an oath faithfully to perform their duties under this article and to administer the terms thereof. Provided however, that the director of finance and the director of the merit system shall not have the power to vote on any issue before the pension board at any time. Vacancies occurring in positions shall be filled for the unexpired terms in the same manner as they were originally filled.

A duly elected officer, employee, or deputy member of the pension board, shall cease being a member of such board when the individual is no longer an active officer, employee, or deputy of DeKalb County. When filling an unexpired term of a duly elected officer, employee, or deputy, an election shall be held on a date determined by the pension board, but no later than the next scheduled pension board election.

Sec. 903. - Compensation of board members; internal organization.

The members of the pension board shall serve without pay, shall elect their own chairman, vice-chairman, and secretary and shall delegate to them their respective duties. It shall be the duty of the pension board to designate some officer or employee of the county to act as clerk of the pension board, and as such to keep all of the records, books and minutes of said board.

Each member of the pension board shall perform his duties in a manner to preserve the immunity granted to such individuals under O.C.G.A. § 51-1-20.

Sec. 904. - Board meetings.

The pension board shall hold at least one (1) regular meeting bimonthly in the courthouse or some other convenient place and open to the public, and such special meetings as shall be called by the chairman or a majority of the voting members of the board. Written notice of the date, place and time of such regular or special meetings shall be served either by mail to the address of each member as it appears on the records of the board or personally upon each member of the board at least three (3) days before any such meeting. Provided however, that any member may waive the written notice and three-day notice by attending the meeting and signing a waiver statement, such statement to be prepared by the clerk for that purpose and kept by him and entered on the minutes of that meeting.

Sec. 905. - Quorum.

A majority of the voting members of the pension board shall constitute a quorum for all purposes. A quorum of said pension board shall be necessary for the transaction of any business or the conduct of any hearing before said board, and the majority of the voting members present shall be sufficient to act upon all matters coming before the board, provided no pension shall be granted without the affirmative vote of at least three (3) voting members of the board.

Sec. 906. - Eligibility of employees for retirement system.

All county officers, employees, and deputies of DeKalb County who are employed or hold offices on the effective date of this act [article] are eligible to come under the terms and provisions thereof. Any person who becomes an employee, officer or deputy after the effective date of this act shall become a member of the retirement system as a condition of this employment, except as herein provided. All officers, employees and deputies shall be given notice in writing by the governing authority of DeKalb County of the passage of this act [article] within ten (10) days after its approval. Such notice shall inform such officers, employees and deputies that they may elect whether or not they shall come within the provisions of this act [article], on or before July 10, 1962. Any such officer, employee or deputy who desires to reject the terms of this act [article] shall so notify the chairman of the board of commissioners of DeKalb County in writing on or before July 10, 1962. All other officers, employees and deputies of DeKalb County shall be deemed to have elected to come within the provisions of this act [article], and shall be subject to the terms and provisions thereof.

The term "employee, officer or deputy" shall not include temporary employees, leased employees within the meaning of IRC section 414(n), or individuals classified by DeKalb County as independent contractors, even if such individuals are later reclassified by the Internal Revenue Service as common law employees.

Sec. 907. - Participants in prior systems.

All participants of the former pension plans of DeKalb County who are not receiving retirement benefits provided by Georgia Laws 1949, page 415, and by Georgia Laws 1953, page 3198, both as amended, who wish to receive credit for services rendered prior to the date of establishment of the plan created under this act [article] must transfer their accumulated contributions to the pension fund herein created and shall receive credit for service under this act [article] as they have accumulated under the aforesaid acts. All officers, employees and deputies who elect not to come under the plan herein created shall be entitled to have refunded to them from the receivers of the former pension funds of DeKalb County all contributions they have made to such former pension funds. Officers, employees and deputies who were not members of the former pension plans for the entire period of their employment, at the time of the passage of this act [article], but who wish to become members of the pension plan herein created with credit for prior service to DeKalb County since January 1, 1954, or from the date of their employment or election if since that date, must pay into the pension fund the amount that they would have paid had they been participants in the pension plan in effect at the time, provided they have not reached normal retirement age at the effective date of this act [article]. This amount may be paid into the pension fund created by this act [article] in cash, in equal monthly installments not to exceed twenty-four (24) installments, or by payroll deductions over a period of twenty-four (24) months; provided however, that should a participant under this section become eligible for benefits, the amount due the fund by him shall be deducted from any benefits he receives at a rate to be determined by the board.

Sec. 908. - Payment of benefits.

(a) Definitions:

(1) Compensation shall mean the actual compensation paid as salary to a participant by the county as herein provided during any calendar month, exclusive of overtime pay, reimbursed expenses, bonuses, commissions,

and any other remuneration. Any increase in the annual compensation limit is effective as of January 1 of a calendar year and applies to any plan year beginning in that calendar year. Beginning after December 31, 1993, only the first one hundred fifty thousand dollars (\$150,000.00) of compensation shall be taken into account (and beginning January 1, 1995, such other amount as may be determined under IRC 401(a)(17)(B)).

Beginning January 1, 2002, in no event shall the compensation of a participant taken into account under the plan for any plan year exceed the limitations of IRC Section 401(a)(17) in effect as of the beginning of the plan year (e.g., \$250,000 for 2012). The limitations set forth herein shall be subject to adjustment as provided in IRC Section 401(a)(17)(B) and IRC Section 415(d); provided, however, that the dollar increase in effect on April 1 of each plan year, if any, is effective for that plan year.

Compensation shall include contributions made to a qualified transportation plan, within the meaning of IRC Section 132(f) and before-tax or salary deferral contributions made under IRC Section 125, 401(k), 402(g)(3), 457(b) or 414(h) to this plan or any other plan maintained by DeKalb County.

- (2) Group (or group of participants) shall mean one of the following three groups of participants:
- A. *group 1* shall include those participants whose first day as a participant is before September 1, 2005;
 - B. *group 2* shall include those participants whose first day as a participant is on or after September 1, 2005 but before January 1, 2016;
 - C. *group 3* shall include those participants whose first day as a participant is on or after January 1, 2016.
- (3) Average compensation shall mean for a group 1 or group 2 participant, the average of the participant's monthly compensation for the highest thirty-six (36) consecutive complete calendar months during the ten (10) years of service, or during the full period of service if less than ten (10) years, immediately preceding the date on which the participant's employment with the county terminates for any reason. Average compensation shall be determined by dividing the total compensation received by the participant during this thirty-six (36) complete calendar months-period by the number of months for which he received compensation in such period. When identifying the "ten (10) years of service" and the "highest thirty-six (36) consecutive complete calendar months" referenced above, any calendar month in which the compensation a participant received was reduced or eliminated because of an unpaid period at least fourteen consecutive days in length (or any portion of such an unpaid period) shall be disregarded as if that calendar month had not occurred; calendar months immediately preceding and following such disregarded calendar months shall be deemed

consecutive. Compensation the participant received during any such disregarded calendar month(s) shall not be counted when calculating average compensation. The definition of average compensation shall be the same for a group 3 participant as for a group 1 or group 2 participant, except that the average compensation for a group 3 participant who continues working as an officer, employee, or deputy of DeKalb County after reaching thirty (30) years of service under this plan shall be calculated as if the participant's employment with the county had terminated when he reached thirty (30) years of service under the plan.

(4) Accrued benefit as of the date of determination shall mean the participant's monthly retirement benefit, equal to:

A. *for group 1 participants*, two and three-fourths (2 3/4) percent of the participant's average compensation multiplied by the participant's years of service, not to exceed a maximum monthly benefit of eighty-two and one-half (82 1/2) percent of average compensation;

B. *for group 2 participants*, two and one-fourth (2 1/4) percent of the participant's average compensation multiplied by the participant's years of service, not to exceed a maximum monthly benefit of sixty-seven and one-half (67 1/2) percent of average compensation;

C. *for group 3 participants*, one (1) percent of the participant's average compensation multiplied by the participant's years of service, not to exceed a maximum monthly benefit of thirty (30) percent of average compensation.

(5) Interest shall mean:

A. *for group 1 participants*, simple interest at the rate of three (3) percent per annum for years prior to 1971, four (4) percent per annum for 1971 and subsequent years prior to 1981, and five and one-half (5 1/2) percent per annum for 1981 and subsequent years;

B. *for group 2 and group 3 participants*, simple interest per annum at the rate defined by the Federal Reserve System H. 15, US Treasury two-year constant maturities, prorated for each month of employment. Interest shall not exceed five and one-half (5 1/2) percent per annum prorated for each month of employment.

(6) Years of service means service credited to participation in a pension plan of DeKalb County. This includes any period during which a participant qualifies for disability retirement benefits after January 1, 1981, as set forth in subsection (b)4. C of this section 908. Accumulated sick leave at the time of retirement shall be credited at the rate of thirty (30) days for one-twelfth year's service for retirement dates on or before May 30, 1996, and shall be credited at the rate of twenty-one and one-half (21 1/2) days

for one twelfth year's service for retirement dates after May 30, 1996. A participant who elects to return to employment as a DeKalb County officer, employee, or deputy after retirement under this plan shall receive service credit for a period of post-retirement employment only if the participant made pension contributions during that period and had his benefits under this plan discontinued during that period. Years of service for which a participant shall have credit after a period of discontinuation of benefits shall include years of service prior to the participant's original retirement, in addition to any service credit for post-retirement employment. No service credit shall be given for any period of post-retirement employment during which a participant received benefits under this plan and/or made no pension contributions.

- (7) Actuarial equivalent shall mean a benefit calculated to be of equal value to the benefit otherwise payable when computed on the basis of the 1983 Group Annuity Mortality Table at seven (7) percent interest, factors prorated based upon seventy-five (75) percent males and twenty-five (25) percent females. For the purpose of calculating early retirement adjustments to IRC Section 415 limitations or for converting a benefit payable as an optional form of payment, the actuarial equivalent shall be computed based on the applicable interest rate and applicable mortality table as prescribed under Section 415.
- (8) Plan Year shall mean the 12-month period beginning each April 1 and ending on the following March 31.
- (9) Actuarially amortized amount shall mean an amount amortized over thirty (30) years by using the same actuarial factors and assumptions used for funding purposes.

1. Normal retirement:

A. Normal retirement date.

- (i) *For a group 1 participant*, the normal retirement date shall be the first day of the month coinciding with or next following the date when the participant has either: (a) attained age fifty-five (55) and completed ten (10) years of service; or (b) attained age sixty-five (65) and completed at least three (3) but less than ten (10) years of service. A participant shall be vested in his accrued benefit at his normal retirement date.
- (ii) *For a group 2 participant*, the normal retirement date shall be the first day of the month coinciding with or next following the date when the participant has either: (a) attained age sixty-two (62) and completed ten (10) years of service; or (b) attained age sixty-five (65) and completed at least seven (7) but less than ten (10) years of service. A participant shall be vested in his accrued benefit at his normal retirement date.

(iii) *For a group 3 participant, the normal retirement date shall be the first day of the month coinciding with or next following the date when the participant has attained age sixty-seven (67) and completed at least seven (7) years of service. A participant shall be vested in his accrued benefit at his normal retirement date.*

B. *Normal retirement benefit.* The monthly retirement benefit payable upon retirement at or after the normal retirement date shall be:

(i) *for a group 1 participant, an amount equal to two and three-fourths (2 3/4) percent of the participant's average compensation multiplied by the participant's years of service, not to exceed a maximum benefit of eighty-two and one-half (82 1/2) percent of average compensation;*

(ii) *for a group 2 participant, an amount equal to two and one-fourth (2 1/4) percent of the participant's average compensation multiplied by the participant's years of service, not to exceed a maximum benefit of sixty-seven and one-half (67 1/2) percent of average compensation;*

(iii) *for a group 3 participant, an amount equal to one (1) percent of the participant's average compensation multiplied by the participant's years of service, not to exceed a maximum benefit of thirty (30) percent of average compensation.*

For all groups of participants, the normal retirement benefit for a participant who retires on or after the normal retirement date shall commence upon retirement and be payable on the first day of each month thereafter during the lifetime of the participant with a minimum of one hundred twenty (120) payments to the participant or beneficiary of the participant, unless the participant elects a different payment option pursuant to subsection 908(b)(5).

2. *Delayed retirement:*

Delayed retirement date. A participant may remain in the active employ of the county beyond normal retirement and, upon retirement, shall retire from the employment of the county on the first day of the month coinciding with or next following the end of the last period which date shall be the delayed retirement date.

3. *Early retirement:*

A. *Early retirement date.*

(i) *For a group 1 participant, the early retirement date shall be the first day of any month coinciding with or next following the date the participant retires from the employ of the county after both attaining age fifty (50) and completing at least ten (10) years of service.*

- (ii) *For a group 2 or group 3 participant, the early retirement date shall be the first day of any month coinciding with or next following the date the participant retires from the employ of the county after both attaining age fifty-five (55) and completing at least ten (10) years of service.*

B. *Early retirement benefit.*

- (i) *Early retirement benefit with early payment penalty.* Following retirement on an early retirement date, a participant shall receive an immediate monthly retirement benefit in an amount computed and payable in the same manner as a normal retirement benefit, except that the monthly retirement benefit shall be based on the participant's average compensation and years of service as of his early retirement date, and:

- (a) *for group 1 participants, the monthly retirement benefit shall be reduced by one-eighth (1/8) of one percent for each complete month by which the date the benefit commences precedes the participant's normal retirement date;*

- (b) *for group 2 participants, the monthly retirement benefit shall be reduced by five-twelfths (5/12) of one percent for each complete month by which the date the benefit commences precedes the participant's normal retirement date;*

- (c) *for group 3 participants, the monthly retirement benefit shall be reduced by thirteen-forty-eighths (13 4/8) of one percent for each complete month by which the date the benefit commences precedes the participant's normal retirement date.*

- (ii) *Early retirement benefit for participants with thirty years of service.* Any participant, regardless of age, who has completed at least thirty (30) years of service and who retires with an early retirement date on or after the effective date of this ordinance [March 1, 1999], shall receive an immediate monthly retirement benefit which shall be an amount computed and payable in accordance with subsection 3.B. of this section 8 [908], with no deduction for each complete month by which the date the benefit commences precedes the participant's normal retirement date.

- (iii) *Early retirement benefit for group 2 and 3 participants with twenty-five years of service.* Any group 2 or group 3 participant who retires from the employ of the county with an early retirement date after both attaining age fifty-five (55) and completing at least twenty-five (25) years of service shall receive an immediate monthly retirement benefit which shall be an amount computed and payable in accordance with subsection 3.B. of this section 8

[908], with no deduction for each complete month by which the date the benefit commences precedes the participant's normal retirement date.

4. Disability retirement:

- A. Eligibility to apply for disability retirement. A participant shall be eligible to apply for disability retirement only if the participant is a current officer, employee, or deputy of DeKalb County and is: (i) a group 1 or group 2 participant with at least five (5) years of service; (ii) a group 3 participant with at least ten (10) years of service; or (iii) a group 1, 2, or 3 participant (regardless of service level) whose application for disability retirement is based on a disability incurred, while acting within the scope of his DeKalb County employment, due to an act of God or violent, external and accidental means not resulting from the participant's misconduct or provocation.
- B. Disability retirement date. An eligible participant's disability retirement date shall be the first day of the month after a determination by the pension board that the participant is totally disabled in accordance with the definition and procedure set forth in section 913 of this appendix.
- C. Disability retirement benefit. An eligible participant who qualifies for disability retirement shall, beginning on his disability retirement date, receive a monthly retirement benefit equal to fifty (50) percent for a group 1 and group 2 participant) or twenty (20) percent (for a group 3 participant) of the participant's monthly rate of earnings as of the date last worked, minus any benefits received, including lump sum payments, and any benefit to be received through workers' compensation from DeKalb County, but the pension shall not be less than one hundred dollars (\$100.00) per month. Beginning on the participant's disability retirement date, this monthly retirement benefit shall be payable on the first day of each month until it ceases upon the earliest of the following events:
- (i) Cessation of the participant's total disability;
 - (ii) The participant's death; or
 - (iii) Recalculation of the participant's monthly retirement benefit at or after the normal retirement date as provided for below.
- D. Transition from disability retirement benefit to normal retirement benefit.
- (i) For group 1 and group 2 participants. If a group 1 or group 2 participant reaches his normal retirement date while receiving disability retirement benefits, he may elect to begin receiving normal retirement benefits instead of disability retirement benefits. If a participant makes this election, his benefit shall be recalculated in the same manner a normal retirement benefit is calculated, based upon the participant's average compensation as of his disability retirement date and years of service earned as of his normal retirement date. This recalculation may cause the participant's monthly benefit amount to increase or to decrease.

When the participant elects to begin receiving normal retirement benefits, he may elect to receive benefits under one of the optional forms of payment described in subsection (b)(5) of this section 908. In the event that a group 1 or group 2 participant is still receiving disability retirement benefits at age sixty-five (65), the participant's monthly benefit shall automatically be recalculated in the same manner as a normal retirement benefit, based upon his average compensation as of his disability retirement date and years of service earned as of his normal retirement date, and the participant may elect to receive benefits under one of the optional forms of payment described in subsection (b)(5) of this section 908. However, when a group 1 or group 2 participant's benefit is automatically recalculated at age sixty-five (65), the participant's monthly retirement benefit shall not be reduced to an amount less than the monthly disability retirement benefit the participant was receiving immediately before age sixty-five (65), except to the extent such a reduction results solely from an election under subsection (b)(5) of this section 908.

- (ii) *For group 3 participants.* If a group 3 participant is still receiving disability retirement benefits when he reaches age sixty-seven (67), his monthly benefit shall automatically be recalculated as a normal retirement benefit and he may elect to receive benefits under one of the optional forms of payment described in subsection (b)(5) of this section 908. However, the participant's monthly retirement benefit shall not be reduced to an amount that is less than the monthly disability retirement benefit the participant was receiving immediately before age sixty-seven (67), except to the extent such a reduction results solely from an election made under subsection (b)(5) of this section 908.

- E. *Requirement of post-offer, pre-employment physical.* All individuals who receive offers of employment (which may be conditional offers) to become new officers, employees or deputies of DeKalb County under this plan shall undergo and complete a physical examination given by a physician chosen or approved by DeKalb County prior to the beginning of such employment, to determine whether they meet the minimum medical standards required to perform the essential functions of the offered job position (with reasonable accommodation if needed for a disability).

5. Optional retirement benefits.

- A. Election of optional retirement benefits. A participant may elect, or may revoke a previous election and make a new election, at any time six (6) months prior to his normal retirement date, early retirement date, or delayed retirement date, to have the benefit provided in subsection 1.B. of this section converted to one (1) of the options hereinafter set forth. Election of any option shall be made by the participant in writing. The one hundred twenty (120) months guaranteed payments provided in subsection 1.B. of this section is the normal form of payment for a normal,

early or delayed retirement and shall be payable unless one of the following optional forms of payment is elected. Election of any option shall be made by the participant in writing. The benefit provided in subsection 1.A.(b) and 1.B. of this section 8 shall not be subject to election, but shall be payable only in the manner stated in said subsection 1.A.(b) and 1.B.

B. Description of Options. The amount of any optional retirement benefit set forth below shall be the actuarial equivalent of the retirement benefit the participant would otherwise have been entitled to receive in accordance with paragraph 1.B. of this section, subject to the reduction in paragraph 3.B. of this section, if applicable.

OPTION 1. Straight life benefit. This option provides an actuarially increased benefit which shall be payable during the lifetime of the participant with all payments ceasing at his death.

OPTION 2. Joint and survivor benefit. This option provides an actuarially reduced benefit payable to the participant during his lifetime, with payments to continue after his death to his joint annuitant in an amount which is fifty (50) percent, sixty-six and two thirds ($66\frac{2}{3}$) percent, seventy-five (75) percent or one hundred (100) percent of the participant's monthly retirement benefit, as elected by the participant upon his retirement, until the death of the joint annuitant. In the event the joint annuitant predeceases the retired participant, benefit payments shall cease upon the death of the participant.

6. Election under Option 2.

A. Joint annuitant. A participant who elects Option 2 shall, on a form provided for that purpose, designate a person to receive the benefits which continue to be payable upon the death of the participant. Such person shall be the joint annuitant of the participant.

B. Cancellation of election. The election by a participant of Option 2 shall be null and void if either the participant or his designated joint annuitant shall die before benefits commence. In the event this election becomes null and void, the participant shall have the right to name another joint annuitant or elect another option in which instance the six (6) months' requirement of subsection 5.A. shall be waived.

C. Increase of benefit. In the event the joint annuitant predeceases the retired participant on or after the effective date of this ordinance, monthly benefit payments to the retired participant shall be increased thereafter to the benefit the participant would otherwise have been entitled to receive in accordance with paragraph 5.B. Option 1 of this section, subject to the reduction in paragraph 3.B. of this section, if applicable. Benefit payments shall cease upon the death of the participant.

7. Termination Benefit.

A. Termination benefit for participants who terminate employment on or before March 25, 1992. In the event of termination of employment within the first three (3) years of service, the participant's contributions will be returned without interest. Upon termination of employment after three (3) years of service but less than ten (10) years, the participant may either withdraw his contributions plus interest or leave his contributions in the fund and receive a monthly benefit to commence at age sixty-five (65) equal to the accrued benefit determined as of his date of termination. Upon termination of employment after the completion of ten (10) years of service the participant may either withdraw his contributions plus interest or leave his contributions in the fund and receive a monthly benefit to commence at his normal retirement date equal to the accrued benefit determined as of his date of termination; provided, however, such terminating employee may elect to commence receiving actuarially reduced benefits any time after he attains fifty (50) years of age.

B. Termination benefit for participants who terminate employment after March 25, 1992.

(i) For group 1 participants.

In the event of termination of employment within the first three (3) years of service, the participant's contributions will be returned to the participant without interest within ninety (90) days of termination by means of a check mailed to the last known address of the participant or delivered by other means at the written request of the participant. Upon completing three (3) or more years of service, the participant is 100% vested in his benefit under the plan. In the event of termination of employment after three (3) or more years of service, the participant's contribution plus interest will be returned to the participant within ninety (90) days of termination by means of a check mailed to the last known address of the participant or delivered by other means at the written request of the participant, unless the participant, prior to the transmittal of such check, elects in writing to leave the contributions in the fund and to receive a monthly benefit to commence at a specific age after he becomes eligible to receive benefits. Except as provided in Section 16 of this Act regarding credit for prior service, any participant who receives a return of contributions shall be ineligible for a pension, except that in the case of a participant with three (3) or more years of service who receives an unrequested return of contributions, such participant may restore eligibility for a pension if, within sixty (60) days of receipt of same, the participant returns the full amount of the contributions and interest and provides to the pension board a written statement setting forth the date as of which the participant intends to retire. Any election of a date of intent to retire may be changed by the participant at any time by writing to the clerk of the pension board and expressing a revised date of intent to retire,

subject to the provisions of this Act governing retirement dates. Expression of intent to retire confirms the participant's desire to leave contributions in the pension fund, and it shall not constitute an application for retirement. A refund of unforfeited contributions plus applicable interest may be requested at any time prior to the pension-eligible participant receiving monthly retirement benefits.

(ii) For group 2 and group 3 participants.

The terms and conditions in 7.B.(i) above shall apply to group 2 and group 3 participants, except that:

- (a) In the event of termination of employment after at least three (3) but less than seven (7) years of service, the participant's contributions plus interest will be returned to the participant within ninety (90) days of termination by means of a check mailed to the last known address of the participant or delivered by other means at the written request of the participant;
- (b) The participant is 100% vested in his benefit under the plan only after completing seven (7) or more years of service;
- (c) In the event of termination of employment after at least seven (7) years of service, the participant's contributions plus interest will be returned to the participant within ninety (90) days of termination by means of a check mailed to the last known address of the participant or delivered by other means at the written request of the participant, unless the participant, prior to the transmittal of such check, elects in writing to leave the contributions in the fund and to receive a monthly benefit to commence at a specific age after he becomes eligible to receive benefits; and
- (d) Except as provided in Section 16 of this Act regarding credit for prior service, any participant who receives a return of contributions shall be ineligible for a pension, except that in the case of a participant with seven (7) or more years of service who receives an unrequested return of contributions, such participant may restore eligibility for a pension if, within sixty (60) days of receipt of same, the participant returns the full amount of the contributions and interest and provides to the pension board a written statement setting forth the date as of which the participant intends to retire. .

- C. Payments Over \$1000. Effective as to distributions that occur on and after March 28, 2005, and notwithstanding any other provision of the plan to the contrary, if (1) the termination benefit or alternative termination benefit pursuant to this section is more than \$1,000, and (2) the

participant does not affirmatively elect to receive the distribution directly or to have such distribution paid directly to an eligible retirement plan in accordance with the requirements section 8 (section 908(b)(12) of this Appendix), then the plan will pay the distribution in a direct rollover to an individual retirement plan designated by the pension board that can account separately for taxable and nontaxable amounts.

8. Death benefit.

A. *Preretirement death benefit for group 1 participants.* If a group 1 participant who has not retired dies prior to completing ten (10) years of service, his beneficiary shall receive a lump sum benefit equal to the participant's contributions plus interest. If a group 1 participant who has not retired dies after ten (10) years or more of service, the participant's beneficiary may elect to receive as a benefit one of the following forms of benefit, subject to the Minimum Distribution Requirements in Section (b)(11). The normal form in which this plan pays a participant's accrued benefit is a monthly benefit payable during the lifetime of the participant with a minimum of one hundred twenty (120) guaranteed payments to the participant or his beneficiary. If a participant dies after ten years or more of service but before receiving any portion of his accrued benefit, his beneficiary will receive a death benefit having an actuarial equivalent value equal to the one hundred twenty (120) guaranteed payments that would have been made to the deceased participant if he has survived and received payment(s) on the same date(s) as the beneficiary. Since the preretirement death benefit has an actuarial equivalent value equal to the deceased participant's 120 guaranteed monthly payments, a beneficiary whose life expectancy is less than 120 months will receive payments over a fewer number of months and in a greater monthly amount than a beneficiary who life expectancy is at least 120 months.

(i) If the participant's beneficiary is the surviving spouse, the spouse may elect to receive either:

I. One hundred twenty (120) monthly payments (or fewer number of payments equal to the spouses' life expectancy) in an amount equal to the monthly payment the participant would have been entitled to receive had he qualified to take and had taken early retirement as of the date of his death, or if applicable in a greater monthly amounts to take into account the fewer number of months of the spouse's life expectancy. The computation of such monthly benefit shall include, without limitation, the reduction applicable in computing early retirement benefits of one-eighth (1/8) of one percent for each complete month, if any, by which his date of death precedes his normal retirement date. Nothing contained herein shall be construed to authorize early retirement for any participant under age fifty (50), or otherwise, except in strict accordance with the provisions of this section 8 [908 of this appendix] governing early retirement.

II. A joint and survivor benefit, as set forth in (b)5.B. of this section 8 [908 of this appendix], equal to one hundred (100) percent of the participant's monthly joint and survivor retirement benefit, deferred until the participant would have been eligible for early or normal retirement and calculated as if the participant had retired the day before his death. If the participant dies before reaching the age of fifty-five (55), then surviving spouse shall elect whether to receive normal or early retirement as set forth in (b)3. of this section 8 [908 of this appendix]. If the surviving spouse elects early retirement, then the spouse will be entitled to a joint and survivor benefit if the participant had reached the age of fifty (50) or, if the participant died prior to reaching the age of fifty (50), when the participant would have attained the age of fifty (50). If the surviving spouse elects normal retirement, then the spouse will be entitled to a joint and survivor benefit when the participant would have attained the age of fifty-five (55). No payments will be made after the spouse dies.

(ii) If the participant's beneficiary is not the surviving spouse, the beneficiary may elect to receive either:

I. A lump sum benefit in an amount equal to the actuarial present value of the one hundred twenty (120) guaranteed payments that would have been made to the deceased participants if he had survived, had been qualified to begin and had begun payments on the same date that the beneficiary receive the lump sum, which shall be paid no later than the end of the 5th year following the participant's year of death. If the participant died before he reached his early retirement date, the lump sum death benefit will be reduced using the reduction applicable in computing early retirement benefit for the period between the date he would have reached his early retirement date and the date he would have reached his normal retirement date, and reduced by an actuarial equivalent reduction for the period between the date the lump sum is paid and the date the participant would have reached his early retirement date.

II. One hundred twenty (120) monthly payments (or fewer number of payments equal to the spouse's life expectancy determined as of the first day of the year following the participant's year of death) in an amount equal to the monthly payment that participant would have been entitled to receive if he had survived, had been qualified to begin and had begun payments on the same date that the beneficiary begins the payments; payments will begin by the end of the calendar year following the participants year of death. If the participant died before he reached his early retirement date, the monthly death benefit will be reduced

using the reduction applicable in computing early retirement benefits for the period between the date he would have reached his early retirement date and the date he would have reached his normal retirement date, and reduced by an actuarial equivalent reduction for the period between the date monthly death benefits begin and the date the participant would have reached his early retirement date. Since the preretirement death benefit has an actuarial equivalent value equal to the deceased participant's 120 guaranteed monthly payment, a beneficiary whose life expectancy is less than 120 months will receive payments over a fewer number of months and in a greater monthly amount than would be received by a beneficiary whose life expectancy is at least 120 months.

The benefits described in this paragraph shall be in lieu of any termination benefit under this section 8 [908 of this appendix].

B. Preretirement death benefits for group 2 and group 3 participants. The death benefit for a group 2 or group 3 participant shall be subject to the same terms and conditions in subparagraph (A) above, except that if the participant has not retired and dies after ten (10) years or more of service, the participant's beneficiary may elect to receive as a benefit one of the following:

- (i) If the participant's beneficiary is the surviving spouse, the spouse may elect to receive either:
 - I. One hundred twenty (120) monthly payments (or fewer number of payments equal to the spouses' life expectancy) in an amount equal to the monthly payment the participant would have been entitled to receive had he qualified to take and had taken early retirement as of the date of his death, or if applicable in a greater monthly amount to take into account the fewer number of months of the spouse's life expectancy. The computation of such monthly benefit shall include, without limitation, the reduction applicable in computing early retirement benefits of five twelfths ($5/12$) of one percent for each complete month, if any, by which his date of death precedes his normal retirement date (if a group 2 participant) or thirteen forty-eighths ($13/48$) of one percent for each complete month, if any, by which his date of death precedes his normal retirement date (if a group 3 participant). Nothing contained herein shall be construed to authorize early retirement for any group 2 or group 3 participant under age fifty-five (55), or otherwise, except in strict accordance with the provisions of this section 8 [908 of this appendix] governing early retirement.
 - II. A joint and survivor benefit, as set forth in [subsection](b)5.B. of this section 8 [908 of this appendix],

equal to one hundred (100) percent of the participant's monthly joint and survivor retirement benefit, deferred until the participant would have been eligible for early or normal retirement and calculated as if the participant had retired the day before his death. If the participant dies before reaching his normal retirement date, then the surviving spouse shall elect whether to receive normal or early retirement as set forth in [subsection](b)3. of this section 8 [908 of this appendix]. If the surviving spouse elects early retirement, then the spouse will be entitled to a joint and survivor benefit if the participant had reached the age of fifty-five (55) or, if the participant died prior to reaching the age of fifty-five (55), when the participant would have attained the age of fifty-five (55). If the surviving spouse elects normal retirement, then the spouse will be entitled to a joint and survivor benefit when the participant would have attained the age of sixty-two (62) (if a group 2 participant) or age sixty-seven (67) (if a group 3 participant). No payments will be made after the spouse dies.

- (ii) If the participant's beneficiary is not the surviving spouse, Plan will pay the death benefit in accordance with the rules described above in Section A(ii).

The benefits described in this paragraph shall be in lieu of any termination benefit under this section 8 [908 of this appendix].

- (iii) After retirement. If a participant has elected the straight life option, his beneficiary shall receive a lump sum benefit equal to the excess, if any, of the participant's contributions accumulated to his retirement date plus interest over the benefits actually paid to date of death. If a participant has elected any other form of payment, death benefits shall be payable as provided for by the provisions of the option elected, but in no event shall total benefits paid be less than the participant's contributions accumulated to his retirement date plus interest.

- 9. Beneficiary. All participants shall, on a form provided for that purpose, designate a person or persons to receive the benefits payable in the event of the death of the participant. Such person or persons shall be the beneficiary of the participant.

The participant may from time to time change the beneficiary by written notice to the pension board, and upon the receipt by the pension board of such change, the rights of all previously designated beneficiaries to receive any benefit under this plan shall cease. In the event that any participant shall die without having designated a beneficiary or in the event that a participant shall die but the beneficiary designated by said participant shall fail to survive the participant, then and in either event, the person who shall constitute the beneficiary of the deceased participant shall be determined as follows:

- (a) In the event the deceased participant is survived by his or her spouse, then such surviving spouse shall be the beneficiary;
- (b) If the deceased participant is not survived by his or her spouse then the beneficiary shall be the deceased participant's estate.

10. Maximum Benefits

A. Benefits with respect to a participant may not exceed the maximum benefits specified under Section 415 of the Internal Revenue Code for governmental plans. This section does not constitute an election under Section 415(b)(10)(C) of the Internal Revenue Code.

B. General Rule.

The annual benefit under this plan payable to a participant at any time shall not exceed the maximum permissible amount. "Maximum permissible amount" shall mean the amount specified in IRC Section 415(b), as adjusted automatically by the Commissioner of Internal Revenue from time to time, with each new limitation to apply to limitation years ending within the calendar year of the date of the adjustment.

If the annual benefit commences before age 62 and after age 65, the maximum permissible amount shall be determined under IRC Section 415 and regulations and rulings thereunder. If the annual benefit commences when the participant has less than 10 years of participation in this plan or any predecessor plan to this plan, the maximum permissible amount as defined above shall be reduced by one-tenth for each year less than 10 in accordance with applicable regulations.

C. Incorporation by Reference.

The limits described in subsection A. and B. above shall be applied under the terms of IRC Section 415 and the regulations thereunder, all of which are incorporated herein by reference. For purposes of applying such limitations, the following optional provisions shall apply:

- (a) The limitation year shall be the Calendar Year.
- (b) A year of service for purposes of calculating a participant's average compensation shall be the Calendar Year.
- (c) "Compensation" shall mean a participant's earned income, wages, salaries, and fees for professional services, and other amounts received for personal services actually rendered in the course of employment as a DeKalb County officer, employee or deputy excluding the following:
 - (1) Employer contributions to a plan of deferred compensation that are not included in the employee's gross income for the taxable year in which contributed or employer

contributions under a simplified employee pension plan to the extent such contributions are deductible by the employee, or any distributions from a plan of deferred compensation;

- (2) Other amounts which receive special tax benefits; and
- (3) Amounts that do not satisfy the timing rules set forth in the Regulations under IRC Section 415.

Compensation for any limitation year is the compensation actually paid or includable in gross income during such year.

Notwithstanding the foregoing, compensation shall include any elective deferral (as defined in IRC Section 402(g)(3)) and any amount that is contributed or deferred by the employer at the election of the employee and which is not includable in the gross income of the employee by reason of IRC Section 125 or 457. In addition, compensation shall be increased by the amount by which the participant's compensation is reduced by salary reduction or similar arrangement under Section 132(f)(4) (*i.e.*, a qualified transportation fringe benefit program).

The annual compensation taken into account shall not exceed the limitations of IRC Section 401(a)(17) in effect as of the beginning of the plan year in which it is paid.

- (d) Amounts that would otherwise constitute "compensation" above but are paid from a nonqualified, unfunded deferred compensation plan sponsored by the employer nevertheless shall constitute "compensation" for purposes of the limitations in IRC Section 415 in the year in which such amounts are actually received by the participant, but only to the extent such amounts are includable in the participant's gross income.
- (e) The following amounts also shall constitute "compensation" under (c) above if (i) the amounts are paid by the later of 2 ½ months after the participant's severance from employment with the employer or the end of the limitation year that includes the date of the participant's severance from employment, and (ii) the amounts would have constituted compensation under (c) above if they were paid prior to the participant's severance from employment with the employer:
 - (1) payment for unused accrued bona fide sick, vacation or other leave, but only if the participant would have been able to use the leave if employment had continued; and

- (2) amounts received by a participant pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the participant at the same time if the participant had continued in employment with the employer and only to the extent that the payment is includible in the participant's gross income.

11. Minimum distribution requirements.

- A. Benefit payments under this plan must begin by the later of April 1 of the calendar year following the year in which the participant reaches age seventy and one-half (70 ½) or retires from active employment. The participant's entire interest in the plan must be distributed over the life of the participant or the lives of the participant and a designated beneficiary, over a period of not extending beyond the life expectancy of the participant or the life expectancy of the participant and designated beneficiary.

When a participant dies after distribution of benefits has begun, the remaining portion of the participant's interest shall be distributed at least as rapidly as under the method of distribution prior to the participant's death.

When a participant dies before distribution of benefits has begun, the entire interest of the participant shall be distributed within five (5) years of the participant's death. The five-year payment rule does not apply to any portion of the participant's interest which is payable to a designated beneficiary over the life or life expectancy of the beneficiary and which begins within one year after the date of the participant's death. The five-year payment rule does not apply to any portion of the participant's interest which is payable to a surviving spouse over the life or life expectancy of the spouse which begins no later than the date the participant would have reached age seventy and one-half (70 ½).

- B. The rules set forth in this subsection B shall apply for purposes of determining the required minimum distribution to participants and designated beneficiaries (as defined below) for calendar years beginning on and after January 1, 2003, even if, in the case of a designated beneficiary, the participant died before 2003.

- (a) No Extension of Death Benefits or Payment Forms. Nothing in this subsection shall be deemed to extend any death benefit or permit any beneficiary designation or payment form not otherwise provided or permitted under this plan. This subsection shall, instead, be deemed to limit and modify any provision of this plan to the extent that such limitation or modification is necessary to ensure that the plan complies with a good faith interpretation of IRC Section 401(a)(9) and the Regulations thereunder.

- (b) Form of Distribution. For a participant who is employed by DeKalb County after age 70 ½ any distribution payable under this

subsection may be paid in any optional form of benefit that is available under the plan, provided that all consent requirements under the plan are satisfied. Any form of distribution payable under this plan, however, must satisfy the following requirements:

- (i) The distribution must be in the form of a periodic annuity for the participant's life, or for the joint life expectancy of the participant and designated beneficiary or over a period certain that does not exceed the maximum length of the period certain determined under the Treasury Regulations.
- (ii) The interval between payments must be uniform over the entire distribution period and must not exceed one year.
- (iii) If payments have commenced over a period certain, the period certain may not be changed.
- (iv) Distributions in the form of a life annuity must satisfy the minimum distribution incidental benefit (MDIB) requirement of IRC Section 401(a)(9)(G) and Treasury Regulation 1.401(a)(9)-6, A-2, or any successor regulation thereto.
- (v) All payments, either in the form of a life annuity or over a period certain must either be nonincreasing or increase only in accordance with the rules set forth in Treasury Regulation 1.401(a)(9)-6, A-1.

For purposes of this subsection, references to a life annuity shall include an annuity for the joint life expectancy of the participant and the designated beneficiary.

- (c) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the participant's required minimum distribution date (or, if the participant dies before distributions begin, the date distributions are required to begin) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the participant's required minimum distribution date.
- (d) Lump Sum Distributions. In the case of a lump sum distribution from this plan that is distributed in or after the calendar year in which the participant attains or would have attained age 70 ½, the amount of the lump sum that equals the participant's or designated beneficiary's required minimum distribution and is not

an eligible rollover distribution, shall be determined using either of the methods set forth in the Regulations. The pension board shall have the sole discretion to elect the calculation method but shall apply the same method to all lump sum distributions made in the same calendar year.

(e) Incidental Death Benefit Requirement. Any optional form of benefit elected by the participant or designated beneficiary must comply with the minimum distribution incidental benefit requirement of IRC Section 401(a)(9)(G). This rule insures that the retirement benefits payable under the plan are more than incidental. If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspouse beneficiary, annuity payments to be made on or after the participant's required minimum distribution date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of section 1.401(a)(9)-6 of the Treasury Regulations.

(f) Actuarial Increase After Age 70 ½.

(1) A participant's accrued benefit shall be actuarially increased to take into account the period after age 70 ½ in which the employee does not receive any benefits under the plan. The actuarial increase shall commence on April 1 following the calendar year in which the employee attains age 70 ½, and end on the date on which benefits commence after retirement in an amount sufficient to satisfy IRC Section 401(a)(9).

The accrued benefit payable to such a participant as of the end of the period for which the actuarial increase is required shall not be less than:

- (i) the actuarial equivalent of the employee's accrued benefit as of April 1 of the calendar year following the calendar year in which the participant attained age 70 ½, *plus*
 - (ii) the actuarial equivalent of any additional benefits accrued after the date described in (i) above, *less*
 - (iii) the actuarial equivalent of any distributions made with respect to the participant's accrued benefit after such date.
- (2) The actuarial increase described above may reduce the benefit accrual otherwise required under IRC Section 411(b)(1)(H)(i).

- (3) The actuarial adjustment described above shall be made even during a period for which benefits are suspended.
- (g) Board Discretion. The pension board shall have discretion to apply the provisions of this subsection to any benefit option elected by the participant to the extent necessary to avoid violating IRC Section 401(a)(9). The pension board may, for example, modify a participant's selection of an optional form of benefit to satisfy the incidental death benefit requirement by requiring that the participant select another form of benefit or another contingent annuitant, or by modifying the form of benefit so that it complies with the applicable rules.
- (h) Definitions. The following definitions shall apply to this subsection, notwithstanding anything contained herein to the contrary.
- (i) Designated Beneficiary. The term "designated beneficiary" shall be determined in accordance with the definition of "beneficiary" in the Treasury Regulations, notwithstanding that this definition may be different from that set forth elsewhere in this plan, provided that any individual who is a designated beneficiary must also be a beneficiary (but not necessarily all of the beneficiaries) as defined in this plan. Each beneficiary, as defined in the plan, however, need not be a designated beneficiary in the event, for example, that a beneficiary disclaims his interest under this plan.
- (ii) Spouse. "Spouse" shall mean "spouse" as defined in the Treasury Regulations. Nothing in this subsection shall be deemed, however, to extend any death benefit or permit any beneficiary designation or payment form not otherwise provided or permitted under this plan.
- (iii) Regulations. "Regulations" shall refer to the Treasury Regulations (including temporary Regulations) promulgated under IRC Section 401(a)(9), as set forth in Treasury Regulations 1.401(a)(9)-1 through 1.401(a)(9)-6T, and any additional guidance issued by the IRS in the form of revenue rulings, notices, other regulations and other guidance published in the Internal Revenue Bulletin or any successor thereto.
- (iv) Distribution calendar year. "Distribution calendar year" is a calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution

calendar year is the calendar year in which distributions are required to begin.

- (v) Life expectancy. "Life expectancy" shall mean the period computed by the use of the Single Life Table in Section 1.401(a)(9)-9 of the Regulations.

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

(a) Definitions.

- (1) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.
- (2) Eligible retirement plan. An eligible retirement plan is an individual retirement account described in IRC Section 408(a), an individual retirement annuity described in IRC Section 408(b), an annuity plan described in IRC Section 403(a), a qualified trust described in IRC Section 401(a), an annuity contract described in IRC Section 403(b), and an eligible plan under IRC Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that agrees to separately account for amounts transferred into such plan from this plan, provided that such account, annuity, contract, plan or trust accepts the distributee's eligible rollover distribution. Effective as of January 1, 2008, eligible retirement plan shall include a Roth IRA established under IRC Section 408A.
- (3) Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order (QDRO), as defined in Section 414(p) of the Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse.

For distributions on and after January 1, 2007, a “distributee” includes a non-spouse beneficiary if the eligible rollover distribution is made to an individual retirement plan that is treated as an inherited individual retirement account or individual retirement annuity in accordance with IRC Section 402(c)(11).

- (4) Direct rollover. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

- (b) Special Rules for Rollovers of After-Tax Contributions. To the extent that an eligible rollover distribution includes amounts that are not includible in gross income, such an amount shall constitute an eligible rollover distribution to the extent that (i) it is transferred in a direct trustee-to-trustee transfer to a qualified trust or to an annuity contract described in IRC Section 403(b), and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible, or (ii) such portion is transferred to an individual retirement account described in IRC Section 408(a) or an individual retirement annuity described in IRC Section 408(b) (other than an endowment contract).

Effective January 1, 1988, the pension board will consider an adjustment to retirement benefits not less than on an annual basis, and will make a formal determination as to whether such adjustment should be granted. Consideration of any such adjustment will be made only in conjunction with information furnished in an annual actuarial report as provided in section 11 of this act [§ 911 of this appendix]. Nothing contained herein is to be construed as making any benefit adjustment automatic or mandatory in nature. In making such determination, the pension board will take into account the information contained in the annual actuarial report and any other policy issues regarding total retirement benefits or the pension plan in general. No adjustment will be made which would adversely affect the financial soundness of the plan without first making provision for any additional contributions necessary to retain financial soundness.

Forfeiture of contributions and benefits. Subject to the requirement for the giving of notice as set forth herein, a terminated participant's contributions plus interest shall be forfeited to the pension fund on the date (the "forfeiture date") which is seven (7) years after the last to occur of the following: (i) date of termination of the participant's employment with the county, (ii) date of issuance of a subsequently uncashed or undeliverable and unclaimed check refunding such contributions and interest, (iii) as to a participant with three (3) years or more of service, the first date as of which the participant is or becomes eligible for a retirement benefit under this plan, or (iv) the participant's expressed date of intent to retire which is in accordance with the provisions of this Act and is on file with the clerk of the pension board as of the time the determination with regard to forfeiture is made; provided, however, that a participant's contributions plus interest shall not be deemed abandoned if, within the applicable seven-year period, the participant has accepted a distribution from the pension fund, corresponded in writing concerning such contributions or interest, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the clerk of the pension board; and provided, further that contributions and interest of a participant shall not be deemed forfeited unless the pension board sends written notice to the participant, not less than thirty (30) days following any

forfeiture date, advising the participant of the applicable provisions of this section, and the participant fails, within thirty (30) days following the giving of such notice, to correspond in writing to the board concerning such contributions of interest, or otherwise expresses to the board an interest therein. Such notice from the board shall be sent by first class mail to the last known address of the participant as shown on the records of the board, but need not be sent if the address of the participant is shown by the board's records to be inaccurate or if the amount of contributions and interest involved is less than fifty dollars (\$50.00). Any eligible participant or beneficiary who applies for a pension benefit later than the first date of eligibility shall forfeit to the pension fund all monthly benefits to which he or she would have been entitled prior to the first day of the month following the actual date of application for a pension. Any participant whose contributions are actually abandoned and paid over to the State of Georgia or another state in accordance with any provision of law shall be ineligible to thereafter receive pension benefits under the plan. Terminated employees who forfeit contributions and interest shall retain eligibility for the same monthly pension benefits for which they were eligible prior to the forfeiture, if any, but they shall be ineligible to withdraw contributions or interest.

Sec. 908.1 – Historical Provisions.

(a) *Adjustments to retirement benefits.*

- (1) Effective July 1, 1987, benefits payable to officers, deputies and employees who have retired or become disabled and who are receiving pensions from DeKalb County under this ordinance [article] or under the pension plan provided under Georgia Laws 1949, page 415, as amended or under the pension plan provided by Georgia Laws 1953, page 3198, as amended, shall be increased by three (3) percent of the retirement benefit payable for the month of June 1987.
- (2) *Effective for monthly benefits payable on or after September 1, 1990, monthly* benefits payable to officers, deputies, and employees who have retired or become disabled and who were, as of January 1, 1990, receiving pensions from DeKalb County under this ordinance or under the pension plan provided under Georgia Laws 1949, page 415, as amended, or under the pension plan provided by Georgia Laws 1953, page 3198, as amended, shall be increased by an amount equal to three (3) percent of such person's retirement benefit payable with respect to the month of July, 1987, for which payment became due on July 1, 1987; provided, however, that the monthly benefit increase for such officers, deputies, and employees who have retired or become disabled and who were, as of January 1, 1990, receiving pensions from DeKalb County as aforesaid, but who did not receive a retirement benefit with respect to the month of July, 1987, shall be an amount equal to three (3) percent of the first monthly retirement benefit payable to them after July 1, 1987.

Effective for monthly benefits payable on or after September 1, 1992, monthly benefits payable to officers, deputies,

and employees who have retired or become disabled and who were, as of December 1, 1991, receiving pensions from DeKalb County under this ordinance or under the pension plan provided under Georgia Laws 1949, page 415, as amended, or under the pension plan provided by Georgia Laws 1953, page 3198, as amended, shall be increased by an amount equal to three (3) percent of such person's retirement benefit payable with respect to the month of July, 1987, for which payment became due on July 1, 1987; provided, however, that the monthly benefit increase for such officers, deputies, and employees who have retired or become disabled and who were, as of December 1, 1991, receiving pensions from DeKalb County as aforesaid, but who did not receive a retirement benefit with respect to the month of July, 1987, shall be an amount equal to three (3) percent of the first monthly retirement benefit payable to them after July 1, 1987.

Effective for monthly benefits payable on or after January 1, 1997, monthly benefits payable to officers, deputies, and employees who have retired or become disabled and who were, as of January 1, 1996, receiving pensions from DeKalb County under this ordinance or under the pension plan provided under Georgia Laws 1949, page 415, as amended, or under the pension plan provided by Georgia Laws 1953, page 3198, as amended, shall be increased by an amount equal to three (3) percent of such person's retirement benefit payable with respect to the month of July, 1987, for which payment became due on July 1, 1987; provided, however, that the monthly benefit for such officers, deputies, and employees who have retired or become disabled and who were, as of January 1, 1996, receiving pensions from DeKalb County as aforesaid, but who did not receive a retirement benefit with respect to the month of July, 1987, shall be an amount equal to three (3) of the first monthly retirement benefit, payable to them after July 1, 1987.

Effective for monthly benefits payable, on or after the effective date of this amendment [December 23, 2004], monthly benefits payable to officers, deputies, and employees who have retired or become disabled (including surviving pension beneficiaries and joint annuitants) and who were, as of the date of adoption of this amendment, receiving pensions from DeKalb County under this ordinance or under the pension plan provided under Georgia Laws 1949, page 415, as amended, or under the pension plan provided by Georgia Laws 1953, page 3198, as amended, shall be increased by an amount equal to three (3) percent of such person's retirement benefit otherwise payable with respect to the effective date of this amendment [December 23, 2004].

Effective for monthly benefits payable at least one (1) month after the effective date of this amendment, monthly benefits payable to officers, deputies, and employees who have retired (including surviving pension beneficiaries and joint annuitants) and who

were, as of both the date of the adoption of this amendment and May 31, 2002, receiving pensions from DeKalb County under this section or under the pension plan provided under Georgia Laws 1949, page 415, as amended, or under the pension plan provided under Georgia Laws 1953, page 3198, as amended, and whose pension benefits were calculated based on at least ten (10) years of credited pension service, shall be increased by an amount equal to two (2) percent of such person's retirement benefit otherwise payable with respect to the effective date of this amendment.

(b) Retirement Incentives.

(1) 1996 Retirement Incentive. A participant who has attained age fifty (50) and less than age fifty-five (55), and who has completed at least twenty-five (25) years of service, and who retires with an early retirement date between September 1, 1996 and November 1, 1996 (inclusive) shall receive an immediate monthly retirement benefit which shall be an amount computed and payable in accordance with subsection 3.B. of this section 8, with no deduction for each complete month by which the date the benefit commences precedes the normal retirement date of the participant.

(2) 2010 Retirement Incentives

A. 2010 Early-Out Incentive. A participant shall receive the retirement opportunity and incentive referred to herein as the "2010 Early-Out Incentive" only if the participant: is a current DeKalb County officer, employee, or deputy as of May 30, 2010; completes at least twenty-five (25) years of credited service as of May 31, 2010; is less than fifty years of age on May 31, 2010; submits to the director of finance a fully completed and executed 2010 Retirement Incentive Application and Waiver/Release between March 2 and April 16, 2010; allows that Waiver/Release to become effective and enforceable; and elects to retire with a retirement date of May 31, 2010. A participant who satisfies all these criteria and requirements for the 2010 Early-Out Incentive shall receive an immediate monthly retirement benefit in an amount that is computed and payable in the same manner as a normal retirement benefit in accordance with subsection (b)1.B of this section 8 [908], with no deduction for each complete month by which the date the benefit commences precedes the participant's normal retirement date. A participant who satisfies all criteria and requirements for the 2010 Early-Out Incentive shall also receive, after his retirement date, a lump sum retirement benefit from the pension fund in an amount equal to the net value of the participant's unused annual leave (up to 60 days) at his regular rate of pay. Because a

participant who satisfies all the criteria and requirements for the 2010 Early-Out Incentive shall receive, from the pension fund, the retirement benefit described in the previous sentence, such a participant shall not be eligible to receive payment from any other source for any amount of unused accumulated annual leave. Some participants who are eligible to receive the 2010 Early-Out Incentive may be deemed "Key Employees" because their retirement on May 31, 2010, would cause a substantial business hardship for the County. The chief executive officer or another elected county officer may defer the retirement date of a Key Employee under his supervision for up to three (3) months after May 31, 2010, if that Key Employee agrees in writing, before May 31, 2010, to accept the deferred retirement date. A Key Employee who agrees to accept a deferred retirement date shall not be paid any retirement benefit under this paragraph until after his deferred retirement date.

- B. 2010 Retirement-Plus Incentive. A participant shall receive the retirement opportunity and incentive package referred to herein as the "2010 Retirement-Plus Incentive" only if the participant: is a current DeKalb County officer, employee, or deputy as of May 30, 2010; completes at least eight (8) years of credited service as of May 31, 2010; reaches the age of fifty (50) years on or before May 31, 2010; submits to the director of finance a fully completed and executed 2010 Retirement Incentive Application and Waiver/Release between March 2 and April 16, 2010; allows that Waiver/Release to become effective and enforceable; and elects to retire with a retirement date of May 31, 2010. A participant who satisfies all these criteria and requirements for the 2010 Retirement-Plus Incentive shall receive an immediate monthly retirement benefit in an amount that is computed and payable in the same manner as a normal retirement benefit in accordance with subsection (b)1.B of this section 8 [908], with no deduction for each complete month by which the date the benefit commences precedes that participant's normal retirement date, and with two years of service added to the participant's credited years of service for the purpose of calculating the participant's benefit under subsection (b)1.B of this section 8 [980], except that the two added years of service shall not increase the participant's credited years of service to a total higher than thirty (30) years. A participant who satisfies all criteria and requirements for the 2010 Retirement-Plus Incentive may, in his timely-submitted 2010 Retirement-Plus Incentive Application, elect to receive 0%, 10%, or 25% of the actuarial present value of the total retirement benefit described above in this paragraph as a lump sum payment

in 2010; however, if such a participant receives 10% or 25% of the actuarial present value of that retirement benefit as a lump sum payment in 2010, then the participant's monthly retirement benefit amount shall be reduced based on the 10% or 25% reduction in the actuarial present value of the amount remaining to be paid out to the participant. A participant who satisfies all criteria and requirements for the 2010 Retirement-Plus Incentive shall also receive, after his retirement date, a lump sum retirement benefit from the pension fund in an amount equal to the net value of the participant's unused accumulated annual leave (up to 60 days) at his regular rate of pay, plus one of the following two amounts, whichever is larger: the net value of twenty-five days of annual leave at the participant's regular rate of pay, or 50% of the net value of the participant's unused accumulated annual leave (up to 60 days) at his regular rate of pay. Because a participant who satisfies all criteria and requirements of the 2010 Retirement-Plus Incentive shall receive, from the pension fund, the retirement benefit described in the previous sentence, such a participant shall not be eligible to receive payment from any other source for any amount of unused accumulated annual leave. Some participants who are eligible to receive the 2010 Retirement-Plus Incentive may be deemed "Key Employees" because their retirement on May 31, 2010, would cause a substantial business hardship for the County. The chief executive officer or another elected county officer may defer the retirement date of a Key Employee under his supervision for up to three (3) months after May 31, 2010, if that Key Employee agrees in writing, before May 31, 2010, to accept the deferred retirement date. A Key Employee who agrees to accept a deferred retirement date shall not be paid any retirement benefit under this paragraph until after his deferred retirement date.

- C. Funding. DeKalb County will fund the actuarially amortized amount of the total lump sum retirement benefits that are based on annual leave calculations, including interest thereon, and that are paid to participants in the pension fund who retire pursuant to the 2010 Retirement Incentives described in paragraphs A and B of this subsection.

Sec. 909. - Pension fund—Created.

There is hereby created a pension fund to be administered by the Pension Board of DeKalb County and from which this board shall pay the benefits as set out hereinbefore to the participants therein, said fund to consist of the transfer to it of the funds accumulated under the former pension plans of DeKalb County and contributions by participants and DeKalb County as

set out hereinafter and its accumulations by investment and reinvestment under the direction and control of the pension board as set out hereinafter.

Sec. 910. - Same—Contributions by participants.

(a) Participant contribution rates

Except as otherwise provided herein, or as otherwise amended, it shall be the duty of the Director of Finance of DeKalb County to make payroll deductions from the compensation paid to each participant of an amount equal to two and one-half (2 ½) percent of the compensation of the participant. Effective January 1, 2007, it shall be the duty of the Director of Finance of DeKalb County to make payroll deductions from the compensation paid to each participant of an amount equal to three and one-half (3 ½) percent of the compensation of the participant. Effective January 1, 2008, it shall be the duty of the Director of Finance of DeKalb County to make payroll deductions from the compensation paid to each participant of an amount equal to four (4.0) percent of the compensation of the participant. Effective January 1, 2009, it shall be the duty of the Director of Finance of DeKalb County to make payroll deductions from the compensation paid to each participant of an amount equal to four and one-half (4 ½) percent of the compensation of the participant. Effective January 1, 2016, it shall be the duty of the Director of Finance of DeKalb County to make payroll deductions from the compensation paid to participants as follows: from each group 1 participant, an amount equal to ten and forty-eight hundredths (10.48) percent of the participant's compensation; from each group 2 participant, an amount equal to eight and fifty-seven hundredths (8.57) percent of the participant's compensation; from each group 3 participant, an amount equal to six and forty-two hundredths (6.42) percent of the participant's compensation. Contributions will continue to be deducted so long as the participant continues to be employed by DeKalb County, except that for a group 3 participant, the above-described payroll deductions shall cease after the participant has been subject to such deductions for thirty (30) years of service under this plan. Payroll deductions from group 3 participants shall not be raised to a level higher than seven and ninety-four hundredths (7.94) percent of the participant's compensation during any period when the formula for calculating benefits for a group 3 participant is the same as or less generous than the formula for calculating group 3 participant's benefit as of January 1, 2016. Participants who have contributions made by payroll deduction shall not be entitled under any circumstances to receive such contributions in cash in lieu of having them contributed to the plan. Such contributions shall be made pursuant to IRC Section 414(h) and shall be treated as employer contributions in determining their federal income tax treatment. Such contributions by participants shall be 100% vested for all purposes under the plan.

(b) *Participant contribution rates upon return to DeKalb County service after a non-retirement break in service.* When a participant in this plan leaves the service of DeKalb County and then returns to DeKalb County service under this plan following an absence (during which the participant received no benefits under this plan), the participant's pension contributions shall resume, upon his return to DeKalb County service, at the contribution rate then required for members of the participant's group (group 1 , 2 or 3 as defined in section 908 of this appendix) in accordance with subsection 910(a) and 915.1 of this appendix.

(c) *Participant contribution rates upon return to DeKalb County service after retirement under the plan.* Except as specifically provided otherwise, in section 18 of the Act, now

codified in the Code of DeKalb County, Georgia, appendix B, as section 920, when a participant retires under this plan and then returns to DeKalb County service under this plan following an absence (during which the participant received benefits under this plan), the participant's pension contributions shall resume, upon his return to DeKalb County service, at the contribution rate then required for members of the participant's group (group 1 , 2 or 3 as defined in section 908 of this appendix) in accordance with subsection 910(a) and 915.1 of this appendix; such participant shall not be required or permitted to repay monthly benefits theretofore drawn.

Sec. 911. - Same—Appropriation; employment of actuary.

Commencing January 1, 1996, the governing authority in charge of county affairs for DeKalb County shall appropriate to the pension fund annually, to be paid in monthly installments, an amount equal to three and one-quarter (3.25) percent of the amount of monthly compensation of each participant in this pension system. After forty (40) years of creditable service under pension service no further contributions to the pension plan shall be made by DeKalb County on behalf of the employee.

Within sixty (60) days prior to the end of the first one-year period next following the effective date of this act [article], it shall be the duty of the governing authority of DeKalb County to employ some qualified actuary or firm of actuaries to analyze the DeKalb County pension plan and report thereon to the pension board. Should such report reveal that the contribution plan herein provided to be made by DeKalb County be insufficient to maintain the plan on a sound basis, it shall be the duty of such governing authority of DeKalb County to appropriate such further sums for the next one (1) year as would be necessary to maintain the fund and the plan on a sound financial basis.

Should the actuary or firm of actuaries find that a lesser contribution to DeKalb County would maintain the fund and plan on a sound financial basis, DeKalb County is authorized to decrease its contribution to the percentage of the total payroll of the participants found by the actuary or firm of actuaries to be sufficient to maintain the plan and the fund on such sound financial basis. The pension plan shall be actuarially reviewed each one (1) year thereafter and adjustments made as set out herein if such adjustments are found to be necessary, and the actuary or firm of actuaries employed to make such analyses shall be selected by the pension board.

Sec. 912. - Participation of persons who did not choose to participate at inception of pension plan.

Any officer, employee or deputy who chose not to participate in this pension plan at its inception on July 12, 1962, may become a participant by:

- (1) Authorizing deductions to be made from his earnings on the basis set out herein for participants with his "years of service" to begin on the first day of the month immediately following this authorization, and his participation subject to all the provisions of this plan.
- (2) If he has uninterrupted county service since July 12, 1962, and is not a participant in any other retirement program excepting social security or a State of

Georgia program, and desires to receive credit as a participant for all or any designated number of consecutive years last passed, he may pay into the pension fund the same amount he would have contributed plus the amount the county would have contributed plus three (3) percentum simple interest on the total for each year he desires credit, said contributions to be based on his pay scale at the time the contribution would have been made had he been a participant. The privilege of any such participant to purchase credit for past years of service shall be exercised on or before April 1, 1971, and shall be under the same terms and conditions set out in section 6 of this chapter [§ 907 of this appendix] giving said terms the definitions of this 1970 amendment.

Sec. 913. - Disability pension—Definition; filing of physicians' certificates; hearing.

Effective January 1, 1981, a participant shall be totally disabled for purposes of determining his eligibility retirement under section 8 [§ 908 of this appendix] and other matters related to this pension plan if the participant is in a continuous state of incapacity due to illness or injury which:

- (a) While it continues during the first twelve (12) months of incapacity prevents the participant from performing the duties of his normal occupation with the county; and
- (b) While it continues thereafter, prevents the participant from engaging in any occupation for which he is or becomes reasonably qualified by education, training or experience.

Whenever an application for disability pension has been filed, the applicant shall submit therewith a signed certificate from a licensed, practicing physician of Georgia certifying to the total disability of such applicant for a pension. Immediately thereupon the pension board shall order the applicant to be examined by the county physician or some other physician named by the board who likewise shall certify the physical ability or total disability of the applicant. In the event the certificates of the respective physicians shall generally agree upon total disability, such facts shall be conclusive as to the physical or mental condition of the applicant and the board shall thereupon enter an order granting a pension in the proper amount. In the event the certificate tendered by the applicant and the certification of the county physician appointed by the board shall disagree as to the condition of the applicant, then and in that event, the pension board shall consider both opinions and render a decision. If the pension board denies the application, the participant may request a hearing before the pension board. Such hearing shall be conducted informally by the examination of witnesses for and in opposition to such application who shall be sworn, and both the applicant and pension board may be represented by legal counsel if they so desire. Copies of documents may be received as evidence in lieu of the original at the discretion of the board, and affidavits shall be filed with the board at the time of the hearing. The decision of the board after a hearing shall be final as to the physical or mental condition of the applicant, but the proceeding shall be subject to review by writ of certiorari from the superior court of DeKalb County. The chairman of the pension board shall be authorized to acknowledge service on any such writ, and to answer same on behalf of the pension board.

Sec. 914. - Same—Annual review.

The pension board shall have the right, at intervals of not less than one (1) year, to require an examination of all participants receiving disability pensions under the provisions of this act [article]. In the event any such participant receiving disability pension shall be found, as a result of such examination, not to be disabled, the pension board may, after hearing evidence thereon, and an opportunity to such participant to be heard, remove such participant from the list of those entitled to disability pension. Provided, however, that in the event such participant receiving disability benefits refuses to submit to a physical examination after thirty (30) days' notice to report for such examination, the pension board shall withhold payments of his benefits until he submits to such examination and the participant shall be deemed to have forfeited his benefits during the time of his refusal to submit to a physical examination.

Sec. 915. - Issuance of subpoenas to hearings.

In any hearing before the pension board the clerk thereof shall have the authority to issue subpoenas in the name of the board, requiring the attendance of witnesses and the production of documents for the purpose of being used as evidence before said board. Subpoenas shall be issued at the request of the applicant by the board, and any witness failing to attend or to produce any record required of him, without legal excuse, shall be guilty of contempt and may be fined for same before the judge of the superior court of DeKalb County.

Sec. 915.1. - Credit for prior service.

Any participant in the plan herein who shall return to the service of DeKalb County after an absence therefrom, whether under resignation, leave of absence or discharge, shall be entitled to credit against his service for all periods of time he has served as an officer or employee, or as a deputy of an officer of DeKalb County, provided such participant shall restore to the pension fund all sums which he may have withdrawn therefrom on the date of his resignation or discharge from county service, together with interest thereon at the rate of three (3) percent per annum. Said sum may be paid in equal installments over a period not to exceed twenty-four (24) months; provided, however, should a participant under this section become eligible for any benefits before this amount is fully paid, the amount due the pension fund by him shall be deducted from such benefits at a rate to be determined by the board. Any participant who is granted an official leave of absence by the county for a period not to exceed six (6) months at any one (1) time and who does not withdraw his contributions from the pension fund may receive service credit for the duration of such leave of absence by paying into the pension fund the contributions he would have had had he been in continuous employment based on his salary or wages as of the last day of active duty. This amount may be repaid within twelve (12) months of the date of his return to duty and the county shall pay into the pension fund the same contribution required of it as if such employee had continued on active duty; provided, however, that should a participant under this section become eligible for benefits before this amount is fully paid, the amount due the pension fund shall be deducted from such benefits at a rate to be determined by the board.

Any participant who becomes a participant in this plan, leaves the service of DeKalb County, and then, on or after September 1, 2005, returns to the service of DeKalb County under this Plan following an absence shall resume participation in this plan as part of the same group of participants (group 1, 2 or 3, as defined in section 908 above) that he was part of immediately before such absence, provided that he did not receive a return of contributions. If any such participant received a return of contributions, he will resume participation in this plan as a group

2 participant upon return to DeKalb County service between August 31, 2005 and January 1, 2016, and shall resume participation in the plan as a group 3 participant upon return to DeKalb County service on or after January 1, 2016, whether or not he restores the amounts that he withdrew with interest.

Sec. 916. - Removal of pension board members.

Elected and appointed board members who fail to attend a minimum of fifty (50) percent of pension board meetings during a period of twelve (12) consecutive months may be removed from the pension board by a majority vote of the other voting pension board members provided a quorum of such voting pension board members participate in such a vote. Those who are removed due to absences may be elected or appointed again to fill the unexpired term in the same manner the position was originally filled.

Sec. 917. – Reserved.

Sec. 918. - Credit for military service.

Any participant who shall have served in the armed forces of the United States during World War I or World War II or the Korean War and who, at the time of induction into said armed forces, was an officer, employee or deputy of DeKalb County, shall be entitled to have credit against his service with said county all of the time represented by the period of said service. Any participant who shall hereafter be inducted into the armed forces of the United States by conscription or under any compulsory military plan, shall likewise be entitled to credit for service during the period he was absent from county service and in the armed forces of the United States; provided such employee shall, within six (6) months after his discharge from the armed service, return to the service of DeKalb County, and pay to the pension fund a sum equal to the amount of the contribution which said participant would have made to the pension fund had he continued in the county service and had not been inducted into the armed forces of the United States, such payment to be made in not more than twelve (12) equal monthly installments. Should a participant under this section become eligible for benefits before this amount is fully paid in, the amount due the pension fund shall be deducted from such benefits at a rate to be determined by the board. Military service shall not be construed to interrupt continuous service.

- (a) The plan will grant continuous service for a period of military service in accordance with the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and O.C.G.A. § 38-2-279(f), and any other related federal or state laws, to a participant who was a current DeKalb County officer, employee or deputy when such military service commenced and who satisfies all terms and conditions to obtain such continuous service under one or more of those laws and will grant the participant an accrued benefit for such a period of military service if and to the extent that the participant or his beneficiary or estate makes up any required participant contributions as provided below. Such a participant, or the beneficiary or estate of a deceased participant, shall have the right to make up the participant's missed contributions and thereby receive an accrued benefit for a period equal to the participant's period of military service, up to the maximum number of years permitted under applicable laws.

The participant, beneficiary or estate must notify the pension board of the desire to repay the missed participant contributions.

- (b) A participant seeking to exercise a legal right to make up required participant contributions to obtain an accrued benefit for a period of military service shall make such contributions either in one lump sum payment or in installments paid during a period that ends no longer than five (5) years after the period of military service ends. If the participant died during the period of military service, a beneficiary or legal representative of the participant's estate seeking to exercise a legal right to make up required participant contributions to obtain an accrued benefit for the participant's period of military service shall make such contributions no later than one year following proof of the participant's death. Make-up contributions for participants who are reemployed by the county may be deducted from the participant's salary or other compensation on a pre-tax basis.
- (c) The amount of participant contributions required to obtain an accrued benefit for a period of military service shall be the amount of contributions that the participant would have been required to make during that period of military service if he had been continuously employed with the county during that period, calculated using the participant contribution rate(s) that were applicable during that period and the pay rate(s) the employee would have received during that period. If the determination of said pay rate(s) is not reasonably certain, the pay rate used to calculate the amount of participant contributions to be paid shall be the participant's average rate of compensation during the 12-month period (or period of county employment, if shorter) immediately preceding his military service.
- (d) To the extent required or permitted by applicable law, a participant shall be required to inform the county in writing before entering military service in order to be eligible for continuing service as described above.

Sec. 919. - New participants to begin contributions immediately.

All new participants in this plan, including hourly laborers, shall be required to make contributions immediately upon their employment, and their coverage shall become effective forthwith.

Sec. 920. - Contributions not required while receiving pension.

No contribution shall be required of any participant during the time that such party is receiving a pension under the provisions of this act [article].

Sec. 921. - Investment of funds.

- (a) From and after the effective date of this ordinance, the pension board shall have authority to invest and reinvest money which is held for the purpose of paying pensions, but which is not needed for the immediate payment thereof, as

determined by the board in its written investment policy statement, approved by a majority of the members of the board in:

- (i) Securities of the United States of America, including securities of the agencies of said government, of the State of Georgia, or of any county, municipality or authority of the State of Georgia (other than DeKalb County or any municipality located in whole or part within DeKalb County, or any agency or authority of DeKalb County or such municipality);
- (ii) Insured savings in any savings and loan associations and state and national banks;
- (iii) Corporate bonds and debentures or other evidence of indebtedness assumed or guaranteed by any solvent institution existing under the laws of the United States of America, or any state thereof, which are not in default as to principal or interest;
- (iv) Corporate stocks, common or preferred, and which are listed on the New York Stock Exchange, the American Stock Exchange or NASDAQ stock quotation system (excluding, however the stock of any issuer if twenty-five (25) percent or more of such issuer's outstanding common stock is owned by a government or governmental agency or authority);
- (v) Certificates of deposit in national banks and state banks insured by the Federal Deposit Insurance Corporation: and
- (vi) Repurchase agreements conforming to the requirements of Georgia law and applicable federal banking laws and regulations and to the extent the plan's investment policy provides for any investment prohibited by Georgia law, such provision of the investment policy statement shall be null and void.

To the extent the plan assets are invested in any investment prohibited by Georgia law, that prohibited investment shall be liquidated as soon as practicable. Provided however, that nothing contained herein shall prohibit the retention of any investments made by the board prior to such effective date if same were authorized by this section and Georgia law when made, including without limitation, investments approved by the board upon the recommendation of a financial advisor employed by the board.

- (b) The board may employ such agents, advisors, counsel and attorneys deemed necessary and delegate to them or any of them discretion to invest funds entrusted to them by the board for investment purposes, subject to the restrictions on investment here set forth and as provided under Georgia law. Accurate records shall be maintained at all times by said board and by all persons, firms, or corporations holding securities purchases with said pension funds, showing that said securities are held as a trust asset of said board.
- (c) Following the date this ordinance becomes effective:

- (i) Except through investments expressly authorized by subsection (a) of the section, the board shall not invest in real estate or loans secured by real estate (including commercial mortgage backed securities other than those issued by the United States Government or an agency thereof), in obligations of DeKalb County, Georgia or in equipment trust certificates as defined in O.C.G.A. sections 33-11-22;
 - (ii) Investments in debt or equity securities of foreign persons or entities (including American Depositary Receipts) are permitted so long as not more than then (10) percent of the pension fund's total assets at market value shall be invested in such securities;
 - (iii) No more than five (5) percent of the pension fund's total assets at market value shall be invested in equities of any one (1) entity or affiliated group of entities;
 - (iv) No more than three (3) percent of the pension fund's total assets at market value shall be invested in any one (1) debt issue (other than United States Treasury securities or securities guaranteed by the United State Government or agency thereof);
 - (v) No more than five (5) percent of the pension fund's total assets at market value shall be invested in the debt securities of any one (1) issuer (other than United States Treasury securities or securities guaranteed by the United State Government or agency thereof);
 - (vi) All debt securities (including government securities other than Unites States Treasury securities or securities guaranteed by the Untied States Government or agency thereof) shall carry an investment rating of BAA or better by Moody's or a rating of BBB or better of Standard & Poor's rating services or, if the rating designations of such specified services are modified or such named service are discontinued at any time in the future, then an equal or higher rating under such modifies rating designations or under a substantially equivalent rating service;
 - (vii) All short term debt instruments shall be investment grade, rate P-1, A-01 or higher, provided that short term funds may be invested in the short term investment fund offered by the pension fund's custodian bank;
 - (viii) short sales and purchases on margin are prohibited; and
 - (ix) Options to purchase or sell securities are prohibited.
- (d) The provisions of this section shall be further amended only by vote of those persons who at the time of such vote or on such other record date not more than thirty (30) days preceding such vote as determined by the board, are either receiving pensions under the act or have completed not less than ten (10) years of participation in the DeKalb County Pension Plan, such vote to be held in the same manner as provided in this act [article]with respect to the election of members of the pension board. The affirmative vote of a majority of those voting in person or by absentee ballot shall be sufficient to adopt such amendment.

The board may adopt such reasonable regulations as it sees fit to permit the use of absentee ballots in connection with such vote.

Sec. 922. - Chairman of pension board.

The chairman of the pension board shall exercise the voting rights pertaining to any securities at any time held in the fund or otherwise consent to or request any action on the part of the issuer of such securities; he may give general or special proxies or powers of attorney with or without powers of substitution, and may participate in amalgamations, reorganizations, recapitalizations, consolidations, mergers, liquidations and similar transactions with respect to such securities and accept and hold any securities issued in connection therewith.

Whenever the pension board has voted to approve an amendment to the laws governing the board, the chairman of the pension board or his designee shall attend the regular board of commissioners meeting at which the amendment is scheduled for adoption.

Sec. 923. - Employment of agents, assistants; reliance on instruments, other papers.

In the management of the fund, the board may, from time to time, employ agents and expert assistants and delegate to them such ministerial and limited discretionary duties as it sees fit. The board shall not be responsible for any loss occasioned by any agent selected by it with reasonable care, and shall be fully protected in acting upon the advice of expert assistants. The board may rely upon any instrument, certificate or papers believed by it to be genuine.

Sec. 924. - Employment of legal counsel.

The pension board shall have the authority as often as such board deems necessary to consult with legal counsel and shall be fully protected in acting upon the advice of such counsel as respect to questions of law.

Sec. 925. - Payment of expenses from fund.

The pension board shall have the authority to direct the payment from its funds, reasonable fees for legal counsel, agents and expert assistants engaged to manage funds, medical examinations of disabled applicants, fees of actuaries or firm of actuaries, employed by them and all other necessary operating expenses incurred by the pension board.

Payments to board members or affiliates of board members for services rendered and payment or reimbursement of travel and lodging expenses for board members are prohibited.

Sec. 926. - Rules for administration.

Immediately following the effective date of this act [article] it shall be the duty of the pension board herein created to promulgate rules consistent with but not inconsistent with this act [article], providing for a procedure for the application of pensions by participants and such other rules as will aid them in the administration of the pension fund.

Sec. 927. - Prior pensions payable.

All officers, deputies and employees who have retired or become disabled and who are receiving pensions from DeKalb County under the pension plan provided under Georgia Laws 1949, page 415, as amended, at the time this act [article] becomes effective, shall receive such pension out of the general fund of DeKalb County.

All officers, deputies and employees, who have retired or become disabled and who are receiving pensions under the pension plan provided under Georgia Laws 1953, page 3198, as amended, shall continue to receive their vested benefits from the fund herein created.

Effective January 1, 1981, each officer, deputy or employee who has retired or becomes disabled prior to January 1,1981, (or the beneficiary or joint annuitant of such deceased individual) and who is receiving a monthly benefit under the provisions of this plan immediately prior to January 1,1981, the amount of monthly benefit which is payable on or after January 1, 1981, shall be equal to the amount of monthly benefit otherwise payable to, or on behalf of, such individual under the terms of the plan as in effect immediately prior to January 1,1981, increased by:

- (a) Five (5) percent if retirement or disability benefits commenced in 1980.
- (b) Ten (10) percent if retirement or disability benefits commenced in 1979.
- (c) Fifteen (15) percent if retirement or disability benefits commenced in 1978.
- (d) Twenty (20) percent if retirement or disability benefits commenced in 1977.
- (e) Twenty-five (25) percent if retirement or disability benefits commenced prior to 1977.
- (f) Where the minimum retirement benefit of employees retiring prior to the effective date of this ordinance [article] is less than one hundred dollars (\$100.00) per month, the retirement benefits shall be increased to one hundred dollars (\$100.00) per month.

Notwithstanding any other provision of this ordinance [article], effective April 1,1987, social security benefits shall not be deducted from benefits payable to officers, deputies and employees who have retired or become disabled and who are receiving pensions from DeKalb County under the pension plan provided under Georgia Laws 1949, page 415, as amended.

Notwithstanding any other provision of this ordinance [article], effective April 1, 1987, social security benefits shall not be deducted from benefits payable to officers, deputies and employees who have retired or become disabled and who are receiving pensions from DeKalb County under the pension plan provided under Georgia Laws 1953, page 3198, as amended.

Notwithstanding any other provision of this ordinance [article] to the contrary, upon the effective date of this ordinance and thereafter, persons receiving a minimum retirement benefit or a disability retirement benefit immediately prior to the effective date shall receive an eleven (11) percent increase in monthly retirement benefits.

Notwithstanding any other provision of this ordinance (article) to the contrary, upon the effective date of this ordinance and thereafter, persons receiving a minimum retirement benefit

or a disability retirement benefit immediately prior to the effective date shall receive a ten (10) percent increase in monthly retirement benefits.

Sec. 928. - Pension benefits nonassignable.

None of the benefits granted under the terms and conditions of this act [article] shall be assignable by the participant, or anyone claiming under him whether as beneficiary or joint annuitant, nor shall any benefits payable hereunder be subject to garnishment, attachment, garnishment in attachment, levy or any other judicial process.

Sec. 929. - Tax authorized.

The governing authority of DeKalb County is hereby authorized to levy an ad valorem tax with respect to all taxable properties in DeKalb County for the purpose of fulfilling the obligations imposed upon DeKalb County by this act [article] and assumed by it pursuant to the authority created herein.

Sec. 930. - Exclusive benefit.

Notwithstanding any provisions to the contrary, the assets of this pension fund are held in trust by the pension board of DeKalb County and are intended for the exclusive benefit of the participants and their beneficiaries.

Sec. 931. - Forfeiture not to increase benefits.

No forfeitures shall be applied to increase the benefits any employee would otherwise receive under this plan.

Sec. 932. - Vesting upon termination of plan.

If this plan is terminated, the accrued benefit of each participant in the plan shall immediately become one hundred (100) percent vested and nonforfeitable, to the extent funded.

Sec. 933. Effect of working for DeKalb County after retirement under this plan.

(a) Limits on county employment while receiving benefits under this plan. No participants shall receive any benefits from this plan while receiving salary or wages as an officer, employee, or deputy of DeKalb County, except that after August 31, 2010, a participant may, after retirement under this plan, work as a merit-exempt, part-time officer, employee, or deputy of the county without any discontinuation of the participant's benefit under this plan, subject to the following limitations:

(1) Limit on hours of postretirement employment in a calendar year.

(A) If a participant exceeds one thousand forty (1040) hours of postretirement county employment in calendar year 2010, 2011, or 2012,

the participant's benefits under this plan shall be discontinued for the remainder of each such calendar year in which the participant exceeds the one thousand forty hour limit, beginning with the month after the participant exceeds that limit.

(b) If a participant exceeds four hundred sixteen (416) hours of postretirement county employment in any calendar year after 2012, the participant's benefits under this plan shall be discontinued for the remainder of that calendar year, beginning with the month after the participant exceeds the four hundred sixteen (416) hour limit.

(2) Limit on postretirement county salary and/or wages in a calendar year.

(A) If a participant earns postretirement county salary and/or wages in calendar year 2010, 2011 or 2012 that exceed fifty (50) percent of the participant's last preretirement annual base salary from the county, the participant's benefits under this plan shall be discontinued for the remainder of each such calendar year in which the participant's county salary and/or wages exceed that limit, beginning with the month after the participant's postretirement salary and/or wages exceeds that limit.

(B) If a participant earns postretirement county salary and/or wages in any calendar year after 2012 that exceed twenty percent (20) percent of the participant's last pre-retirement annual base salary from the county, the participant's benefits under this plan shall be discontinued for the remainder of that calendar year, beginning with the month after the participant's postretirement county salary and/or wages exceed that limit.

(3) If a participant works as a part-time county officer, employee, or deputy while receiving benefits under this plan in any three calendar years, whether consecutive or not, the participant shall not receive any benefits under this plan while working as a county officer, employee, or deputy in any fourth or later calendar year(s).

(4) If a participant receives health insurance, life insurance, paid sick leave and/or paid annual leave that is paid for or subsidized by DeKalb County because of any post-retirement employment, the participant's benefits under this plan shall be discontinued during the period in which the participant receive such insurance and/or leave.

(5) In any calendar year (after 2011) that begins after a participant has reached the age of sixty-two (62) years, the restrictions in subsections (1), (2) and (3) of this section 933(a) shall not apply to that participant. However, if a participant over age sixty-two (62) years at the beginning of a calendar year (after 2011) earns postretirement county salary and/or wages in that calendar year that exceed the larger of the town amounts described in (A) and (B) below, the participant's benefits under this plan shall be discontinued for the remainder of that calendar year, beginning with the month after the participant's postretirement county salary and/or wages for the calendar year exceed the larger to the following two amounts:

(A) the amount equal to the county salary and/or wages the participant earned during the participant's last full calendar year of preretirement county employment (excluding any payout for unused leave) minus twelve months of the participant's monthly retirement benefit as calculated under this plan for the current calendar year; or

(B) the amount that equals fifty (50) percent of the participant's last preretirement annual base salary from the county.

Pension contributions shall be deducted from a participant's salary or wages during any period(s) of post-retirement employment as a DeKalb County officer, employee, or deputy when the participant's benefits under this plan are discontinued for any reason.

For purposes of this section 933, "preretirement" refers to the period before a participant first received a pension benefit under section 8(b)(1), 8(b)(2), or 8(b)(3) of this plan [section 908(b)(1), 908(b)(2), 908(b)(3) of this appendix] or under the 1996 or 2010 retirement incentives [subsection 908.1(b) of this appendix.].

- (b) Limits on independent contractor service to or for DeKalb County while receiving benefits under this plan. No participant shall receive any benefits from this plan while receiving directly or indirectly any monetary remuneration for services as an independent contractor to or for DeKalb County, its officers and/or elected officials, if such monetary remuneration is funded, in whole or in part, out of the public funds of DeKalb County, Georgia, provided however, that participants shall be allowed to receive benefits from this plan while performing such services for up to ten (10) days per calendar years and provided that payment for such services does not exceed ten thousand dollars (\$10,000) per calendar year.
- (c) Prohibition of combined employee and independent contractor work while receiving benefits under this plan. No participant shall receive any benefits from this plan while working as an employee, officer or deputy of DeKalb County and also receiving directly or indirectly any monetary remuneration for services as an independent contractor to or for DeKalb County, it officers, and/or elected officials.
- (d) Notification requirements. A participant who, after retirement under this plan, returns to work as a DeKalb County officer, employee, or deputy or performs services for DeKalb County or its officers or elected officials as an independent contractor shall be required to give the Pension Administrator notice of the expected return to work seven days prior to the date the employment or services begin and shall be required to provide the Pension Administrator with any information requested regarding the expected term, hours, compensation and/or benefits associated with such employment or independent contractor status.
- (e) Monthly retirement benefit upon later retirement not reduced because of return to work. Notwithstanding any other provision to the contrary, returning to work as a DeKalb County officer, employee, or deputy after retirement under this plan shall not cause a participant to receive, upon any later retirement under this plan, a monthly retirement benefit that is less than the actuarial equivalent of the monthly

retirement benefit the participant was entitled to receive at the time of his earlier retirement under this plan, using the actuarial factors in effect on the date of the later retirement. This subsection (e) shall become effective on September 1, 2010 and shall not require a change (for the past or future) in the amount of any monthly retirement benefit calculated before that date.

Sec. 934. – Right to Amend.

DeKalb County reserves the right to modify, alter, or amend the plan from time to time, to any extent that it may deem advisable (except as prohibited by law), including, but not limited to any amendment deemed necessary to insure the continued qualification of the plan under the Internal Revenue Code.