

House Bill 967 (AS PASSED HOUSE AND SENATE)

By: Representatives Epps of the 144<sup>th</sup>, Peake of the 141<sup>st</sup>, and Dickey of the 140<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act entitled "Macon Water Commissioners - Pension Plan," approved  
2 December 30, 1953 (Ga. L. 1953, p. 2831), as amended, particularly by an Act approved  
3 May 1, 2012 (Ga. L. 2012, p. 5637), so as to modify provisions related to termination of  
4 employment before retirement; to modify provisions related to direct rollovers; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 An Act entitled "Macon Water Commissioners - Pension Plan," approved December 30,  
9 1953 (Ga. L. 1953, p. 2831), as amended, particularly by an Act approved May 1, 2012 (Ga.  
10 L. 2012, p. 5637), is amended by revising Section 5.7 of Article V, Benefits, of Section 1 as  
11 follows:

12 "5.7 TERMINATION OF EMPLOYMENT BEFORE RETIREMENT.

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

24 (2)(A) Within a reasonable time period following a member's termination of service,  
25 a terminated member shall be notified in writing by certified mail, return receipt  
26 requested, of his or her option to forego the severance benefit described in

27 paragraph (1) of this subsection and leave the member's employee contributions in the  
 28 plan's trust so as to avoid the forfeiture of the member's accrued benefit related to  
 29 employer contributions. Except as otherwise provided in subparagraph (B) of this  
 30 paragraph, the terminated member shall be afforded a 12 month period, measured from  
 31 the date of the member's termination of service, in which to make such election, and in  
 32 the absence of an election by the terminated member, at the expiration of such 12  
 33 month period, the authority shall cause the trustee to distribute such severance benefit  
 34 to the member as soon as administratively practicable.

35 (B) In the case of a terminated member with an account balance between \$1,000.00  
 36 and \$4,999.99, the employer shall deposit such funds into an individual retirement  
 37 account on behalf of such member. If a terminated member maintains an account  
 38 balance of \$5,000.00 or more, excluding rollover funds, the authority shall maintain  
 39 such member's contributions in the plan until such time as the member makes an  
 40 affirmative election to receive them.

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

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

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

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

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

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

69 (f) If the plan's vesting schedule is amended, or if the plan is amended in any way that  
 70 directly or indirectly affects the computation of the member's nonforfeitable percentage,  
 71 then each member with at least three years of service as of the expiration date of the  
 72 election period may elect to have such member's nonforfeitable percentage computed under  
 73 the plan without regard to such amendment or change. If a member fails to make such  
 74 election, then such member shall be subject to the new vesting schedule. The member's  
 75 election period shall commence on the adoption date of the amendment and shall end 60  
 76 days after the latest of: (1) the adoption date of the amendment, (2) the effective date of the  
 77 amendment, or (3) the date the member receives written notice of the amendment from the  
 78 employer or administrator."

79

## SECTION 2.

80 Said Act is further amended by revising Section 5.15 of Article V, Benefits, of Section 1 as  
 81 follows:

82 "5.15 DIRECT ROLLOVERS.

83 (a) Notwithstanding any provision of the plan to the contrary that would otherwise limit  
 84 a distributee's election under this section, a distributee, or their beneficiary, may elect, at  
 85 the time and in the manner prescribed by the administrator, to have any portion of an  
 86 eligible rollover distribution paid directly to an eligible retirement plan specified by the  
 87 distributee, or their beneficiary, in a direct rollover.

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

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

91 (2) 'Distributee' includes an employee or former employee. In addition, the employee's  
 92 or former employee's surviving spouse, the employee's or former employee's nonspouse  
 93 beneficiary who is a designated beneficiary as defined in Code Section 401(a)(9)(E), and  
 94 the employee's or former employee's spouse or former spouse who is the alternate payee  
 95 under a qualified domestic relations order, as defined in Code Section 414(p), are  
 96 distributees with regard to the interest of the spouse or former spouse.

97 (3) 'Eligible retirement plan' means an individual retirement account described in Code  
98 Section 408(a), an individual retirement annuity described in Code Section 408(b) other  
99 than an endowment contract, a qualified trust, an employees' trust described in Code  
100 Section 401(a) which is exempt from taxation under Code Section 501(a), an annuity plan  
101 described in Code Section 403(a), an eligible deferred compensation plan described in  
102 Code Section 457(b) which is maintained by an eligible employer described in Code  
103 Section 457(e)(1)(A) and that agrees to separately account for amounts transferred into  
104 such plan, and an annuity contract described in Code Section 403(b) that accepts the  
105 distributee's eligible rollover distribution. However, in the case of an eligible rollover  
106 distribution to the surviving spouse, an eligible retirement plan is an individual retirement  
107 account or individual retirement annuity. The term shall also apply in the case of a  
108 distribution to a surviving spouse or to a spouse or former spouse who is the alternate  
109 payee under a qualified domestic relations order, as defined in Code Section 414(p). The  
110 term shall also apply to a Roth-IRA as described in Code Section 408(a).

111 (4) 'Eligible rollover distribution' means any distribution described in Code Section  
112 402(c)(4) and generally includes any distribution of all or any portion of the balance to  
113 the credit of the distributee, except that an eligible rollover distribution does not include  
114 any distribution that is one of a series of substantially equal periodic payments not less  
115 frequently than annually made for the life or life expectancy of the distributee or the joint  
116 lives or joint life expectancies of the distributee and the distributee's designated  
117 beneficiary, or for a specified period of ten years or more; any distribution to the extent  
118 such distribution is required under Code Section 401(a)(9); the portion of any other  
119 distribution that is not includible in gross income, determined without regard to the  
120 exclusion for net unrealized appreciation with respect to employer securities; and any  
121 other distribution reasonably expected to total less than \$200.00 during a year. Any  
122 amount that is distributed on account of hardship shall not be an eligible rollover  
123 distribution, and the distributee may not elect to have any portion of such a distribution  
124 paid directly to an eligible retirement plan."

125 **SECTION 3.**

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