

**LOCAL AND SPECIAL ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY
OF THE STATE OF GEORGIA 1957**

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Sequential Number: 264

Short Title: CITY OF MARIETTA CHARTER AMENDED.

Law Number: No. 400

Origin: (House Bill No. 230).

Full Title: An Act to amend an Act creating a new charter for the City of Marietta, approved August 15, 1904 (Ga. L. 1904, p. 519) as amended, particularly by an Act approved

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February 4, 1949 (Ga. L. 1949, p. 238) so as to establish a policemen and firemen pension fund for certain employees of the City of Marietta; to provide for the creation of a board to administer said fund; to provide for the manner and method of such administration; to provide for investment of said fund; to provide for contributions to said fund and the payment of benefits therefrom; to authorize that physical examinations may be required before disability benefits are paid or continued; to provide an effective date for said fund; to change the limitation on the ad valorem tax which may be levied and collected by the city for certain purposes; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section 1. An Act creating a new charter for the City of Marietta, approved August 15, 1904 (Ga. L. 1904, p. 519) as amended, particularly by an Act approved February 4, 1949 (Ga. L. 1949, p. 238), is amended by the addition following section 1 thereof of eleven new sections to be known as section 1 A, section 1 B, section 1 C, section 1 D, section 1 E, section 1 F, section 1 G, section 1 H, section 1 I, section 1 J, and section 1 K, which shall read as follows:

Section 1 A. There is hereby created a policemen and firemen pension fund (hereinafter called the "fund") for the employees of the police and fire departments of the City of Marietta who shall fall under the provisions of the civil service system of said city as established by an Act approved February 7, 1952 (Ga. L. 1952, p. 2246) as amended, (hereinafter called "participating employees"), and all such employees shall be covered by the provisions of this Act and shall be subject to all the terms and conditions thereof.

[Sidenote: Policemen and firemen pension fund.]

Section 1 B. The fund and all benefits thereunder shall be administered by a five-man board to be known as the "City of Marietta policemen and firemen pension fund board" (hereinafter called the "board") which

shall be chosen as provided in this section. The chairmen of the police committee and the fire committee of the city council of Marietta shall be ex officio members of the board. In the event that there shall be no such committees, or only one such committee of the said city council, the mayor and council of the City of Marietta shall name two councilmen or one councilman as the case may be to serve on the board at the pleasure of said mayor and council. The members of the police department and the fire department of the City of Marietta, under the supervision of the chief of their respective departments, shall each elect one member of the board to serve for a term of two years, and until their successors shall be elected and qualified. The four members of the board, so designated or elected shall select a fifth member of the board for a two-year term, who shall be a resident freeholder of the City of Marietta, and a registered voter of said city. In the event that a majority of the four members shall fail to select the fifth member, then, upon application by any member of the board, he shall be appointed by the judge of the Superior Court of the Cobb Judicial Circuit.

[Sidenote: Board]

Section 1 C. The board shall elect one of its members as chairman, and another as vice-chairman annually for one year terms. Said board is authorized to adopt by-laws and rules and regulations for the administration of the fund, and provide thereby for its regular meetings. Additional meetings may be held on the call of the chairman, or in the event of his absence or disability the vice-chairman, or by any three members of said board. Five days written notice shall be necessary for any such additional meetings, provided that the requirement for such notice may be satisfied by the posting of a letter to each member five days prior to any such meeting. Three members of the board shall constitute a quorum. The clerk of the mayor and council of the City of Marietta shall serve as ex officio secretary and treasurer of the board and shall attend all meetings of the board and record the minutes thereof, shall keep the records of the board, and shall disburse the funds of the board under directions

from the board. All members of the board shall serve as such without compensation.

[Sidenote: Same, organization and duties.]

Section 1 D. Participating employees shall pay into the fund monthly five per cent (5%) of all salaries earned by them from the City of Marietta, provided that no employee shall pay into the fund a sum greater than fifteen (\$15.00) dollars per month. These amounts shall be withheld from the salaries by the City of Marietta and paid directly into the fund monthly. The City of Marietta shall each month pay into the fund five per cent (5%) of all salaries, regardless of the amounts of such salaries, paid participating employees. The City of Marietta is authorized and required to make payments into the fund from tax or other funds of the city. Said city is further authorized and required to underwrite any deficit which may occur in the fund from time to time.

[Sidenote: Contributions.]

Section 1 E. Any funds on hand in excess of those required for immediate use, may be invested by the board in any form of security in which it is lawful for insurance companies to invest their funds under the laws of this State.

[Sidenote: Same, investment.]

Section 1 F. Participating employees shall be entitled to the retirement or disability or both retirement and disability benefits prescribed by this section. Any participating employee shall be entitled to retire on a pension of one hundred (\$100.00) dollars per month after being employed by the city for twenty-five (25) years, and shall have made payments into the fund for a period of at least twelve (12) months, provided that such employee may at his option continue his employment with the city after twenty-five (25) years and retire at such later date as he may desire. If any employee so elects to continue his employment after being eligible for retirement hereunder, he shall during such continued employment continue to pay to the fund the contributions required hereunder. Any participating employee who shall, for any reason, become disabled to the extent that he is unable to perform his duties for a period of thirty

(30) days or more, shall be entitled to the following disability benefits during the period of disability in excess of the first thirty days thereof:

[Sidenote: Benefits.]

Length of Employment	Disability Benefits per Month
Over 20 years	\$100.00
15-20 years	80.00
10-15 years	60.00
5-10 years	40.00
Under 5 years	20.00

Periods for which disability benefits are paid shall not be considered in determining years of employment for retirement purposes.

Section 1 G. The board shall have the right to require any participating employee who shall have applied for or who shall be receiving disability benefits to submit to physical examinations at such reasonable times as the board may direct. In the event that such an employee shall refuse to submit to any such examination the board may refuse to allow or may discontinue any or all disability benefits. The board shall designate the examining physicians and shall bear all the expenses incident to physical examinations required under this section.

[Sidenote: Physical examinations.]

Section 1 H. Any participating employee leaving the service of the City of Marietta for any reason other than retirement under the provisions of this Act, shall be refunded the actual amount

of money that he has paid into the fund, less five percentum of such amount which shall remain in the fund; provided, however, that any participating employee who leaves the service of the City of Marietta and withdraws the amount of his contribution to this fund as provided in this section, and subsequently again becomes eligible to participate in the fund, shall not receive credit for the time of service represented by such withdrawal until and unless he shall have repaid said sum plus five percentum thereof into said fund.

[Sidenote: Employees leaving employment of city.]

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Section 1 I. The widow, or in the event that there shall be no widow, the estate, of any participating employee who shall die shall be entitled to receive from the fund the actual amount of money that he has paid into the fund, less any amounts received by such participating employee as benefits under this Act, and also less five percentum of such amount so remaining, provided that under no circumstances will any amount be due the fund from the widow or estate of such participating employee.

[Sidenote: Benefits, death of employees.]

Section 1 J. Any participating employee dissatisfied with any action of said board in which he has a personal interest shall have the right to appeal to the Superior Court of Cobb County within thirty (30) days from the date of any such action by the board, and shall be entitled to receive a jury trial in said court of the cause so made. In such event, the board shall have the right to employ competent legal counsel to represent it in any such action brought, the cost of same to be paid from monies of the fund.

[Sidenote: Appeal.]

Section 1 K. The above provisions of this Act pertaining to the fund shall be effective on July 1, 1957, provided that on or before that date, the Marietta Police and Fireman's Benefit Association, Inc., a corporation organized and existing under the laws of the State of Georgia, shall have paid into the fund the sum of thirty thousand (\$30,000.00) dollars in cash. Such association is hereby authorized to pay additional amounts into the fund from time to time as it may desire. The board is authorized to receive such contributions from the said association and from any other person, firm or corporation desiring to make such contributions, and to administer any such donated funds in accordance with the provisions of this Act. In the event that the aforementioned sum of thirty thousand (\$30,000.00) dollars is not received by the fund by July 1, 1957, the above provisions of this Act shall not be effective until it is received.

[Sidenote: Effective date, contributions.]

Section 2. Said Act is further amended by striking from section 25 thereof, the words and figures "not exceeding

50¢" and inserting in lieu thereof the words and figures "not exceeding 80¢" so that said section as amended hereby shall read as follows:

"Section 25. The mayor and council of the City of Marietta shall have authority to make such contracts as they may deem necessary for said city and to purchase, hold and sell real and personal property. For the purpose of raising revenues for the support and maintenance of the general purposes of the government of the City of Marietta the mayor and council of said city shall have full power and authority to levy and collect annually an ad valorem tax of not exceeding 80¢ on the one hundred dollars upon all taxable property, real and personal, or otherwise, as subject to said tax by said city, within the corporate limits of said city and upon all money and choses in action whose owner resides within the corporate limits of said city which are subject to taxation by the said city under the laws of the State of Georgia; and, in addition thereto, the mayor and council shall have power and they are hereby authorized to levy and collect an ad valorem tax annually in addition to that now allowed by law to the City of Marietta for general purposes of city government, or otherwise not to exceed 72¢ per one hundred dollars on all taxable property in the City of Marietta, as may be subject to an ad valorem tax by said city, for the purposes of supporting and maintaining the public schools of said city; and in addition thereto, the mayor and council of said city are hereby authorized to levy and collect annually an ad valorem tax on all taxable property in said city for the purposes of providing a sinking fund for the purpose of paying the principal of any bonds heretofore issued by the said city or as may hereafter be issued by the city authorities; and to provide a fund for the payment of the annual interest on said bonds a greater ad valorem tax may be levied and collected annually on all taxable property in said city by the mayor and council. The mayor and council of the City of Marietta shall have power and they are hereby authorized to provide by ordinances for the return of all taxable property in the City of Marietta

as may be subject to taxation by said city and to provide penalties for neglect or refusal by the property owners or agents thereof to comply with the ordinances."

[Sidenote: Taxes.]

Section 3. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 4. All laws and parts of laws in conflict with this Act are hereby repealed.

M-2003

Notice of Intention to Introduce Local Legislation.

Notice is hereby given that there will be introduced at the January-February 1957 session of the General Assembly of Georgia, a bill to amend an Act of the General Assembly of Georgia, approved August 15, 1904 (Ga. L. 1904, pp. 519-533), being an "Act to create a new charter for the City of Marietta," and the Acts amendatory thereof, so as to provide for a retirement plan and a retirement fund for the policemen and firemen of the City of Marietta, to otherwise amend such act, as amended, and for other purposes.

This 14th day of December, 1956.

Fred D. Bentley Senator-Elect Thirty-Ninth Dist. Eugene W. Holcombe Raymond M. Reed
Harold S. Willingham Representatives-Elect of Cobb Cty. 12:14-21-28

Georgia, Cobb County.

Personally appeared before me, the undersigned authority,

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duly authorized to administer oaths, Harold S. Willingham, who, on oath, deposes and says that he is representative from Cobb County, and that the attached copy of notice of intention to introduce local legislation was published in The Marietta Daily Journal, which was the official organ of said county on the following dates: December 14, December 21, and December 28, 1956.

/s/ Harold S. Willingham Representative, Cobb County.

Sworn to and subscribed before me

this 25th day of January, 1957.

/s/ Thelma D. Myers
Notary Public, Cobb County, Georgia
My Commission expires September 14, 1960.
(Seal).

Approval Date: Approved March 13, 1957.