

## **Fifth Amendment to the State of Georgia Employees' Deferred Compensation Plan**

The State of Georgia Employees' Deferred Compensation Plan (the "Plan") was previously established by the State of Georgia and is currently administered by the Board of Trustees of the Employees' Retirement System of Georgia ("the Board" or "Board of Trustees").

### **WITNESSETH:**

**WHEREAS**, the Plan was originally established effective July 25, 1979, and has been subsequently amended several times, with the most recent amendment and restatement as of January 1, 2009;

**WHEREAS**, the Board desires to amend the Plan to allow immediate distributions to alternate payees pursuant to a valid domestic relations order; and

**WHEREAS**, Section 8.1 of the Plan provides that the Board of Trustees may amend the Plan at any time.

**NOW, THEREFORE, BE IT RESOLVED**, the Plan is hereby amended effective as of July 1, 2016, as follows and shall apply on to domestic relations orders received after that date:

1. Section 2.1(n) of the Plan, the definition of "**Domestic Relations Order ('DRO')**" is hereby amended by deleting the phrase "after Participant's eligibility for benefit payment under Plan Article 6." from the end of the first sentence so that the entire Section 2.1(n) reads as follows:

“(n) '**Domestic Relations Order ('DRO')**' means a judgment, decree, or other order under state domestic relations law relating to the provision of child support, alimony, or marital property rights which requires transfer (and subsequent payment) of accumulated Plan Account value to either the spouse, former spouse, child, or dependent(s) of a Participant. A valid DRO is an allowable exception to the general rules prohibiting Plan benefits from being assigned or alienated.”

2. Section 6.5(a) of the Plan "**Plan Subject to Limited DRO Application**" is hereby amended by deleting the last sentence thereof and replacing it with the following:

“However, upon issuance by a state court of a DRO, benefits accrued on behalf of a participant may instead be paid to one or more third parties named in such order in accordance with and subject to the provisions of this Section 6.5.”

3. Section 6.5(c) of the Plan "**Determination of DRO Validity**" is hereby amended by deleting subsection (6) in its entirety, renumbering the subsection that follow, as appropriate and replacing subsection (6) with the following:

"The Order may require payment of the benefit or Distribution of the Account value to any named Alternate Payee at any time prior to commencement of Distribution of such Account value as in not subject to the Order to the Participant."

4. Section 6.5(e) "**If Order IS determined to be a valid DRO**" is hereby amended by deleting the first two sentences of the second paragraph and replacing them with the following"

"Following the transfer of value to an Alternate Payee's account, the Alternate Payee may be entitled to immediate commencement of a Distribution, or payment at such other time as specified by the DRO, subject t the terms of the Plan."

5. Section 6.5(f)(3) "**Alternate Payee Delayed Distribution Month**" is hereby amended by deleting the part of the first sentence preceding the semicolon so that subsection (f)(3) reads as follows in its entirety:

"(3) Distribution to an Alternate Payee can be irrevocably specified to commence in a month LATER than the commencement month applicable to the Participant, so long as such month is NOT LATER THAN the February following the end of the Plan Year in which the original Participant (NOT the Alternate Payee) attains age 70 ½."

6. Section 6.5(f)(4) "**Earliest Commencement of Alternate Payee Distribution**" is hereby amended by deleting the heading and the first paragraph thereof in their entirety and replacing the heading with "**Distribution to Alternate Payee for Inactive Account Distribution**".

**BOARD OF TRUSTEES OF  
THE EMPLOYEES' RETIREMENT SYSTEM OF GEORGIA**

By Its: \_\_\_\_\_

*Lawrence Santelli*  
Board Chair

Date: \_\_\_\_\_

*June 16, 2016*