

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2010- 189

AN ORDINANCE ADOPTED UNDER THE HOME RULE POWERS GRANTED TO CLAYTON COUNTY PURSUANT TO ARTICLE IX, SECTION II, PARAGRAPH I OF THE CONSTITUTION OF THE STATE OF GEORGIA OF 1983, AMENDING THE CLAYTON COUNTY CODE OF ORDINANCES, SPECIFICALLY RELEVANT SECTIONS OF THE CLAYTON COUNTY, GEORGIA PUBLIC EMPLOYEE RETIREMENT SYSTEM TO EXCLUDE EMPLOYEES WHO ARE ACTIVE PARTICIPANTS OR MEMBERS IN EMPLOYEES RETIREMENT SYSTEM OF GEORGIA OR THE GEORGIA STATE EMPLOYEES PENSION AND SAVINGS PLAN; TO SUSPEND RETIREMENT BENEFITS FOR PARTICIPANTS WHO ARE REEMPLOYED BY A PLAN SPONSOR AS FULL-TIME EMPLOYEES AFTER NORMAL RETIREMENT AGE, TO REPEAL CONFLICTING LAWS, ORDINANCES AND RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

WHEREAS, Clayton County and the Clayton County Water Authority maintain the Clayton County, Georgia Public Employee Retirement System (Pension Plan) (the "Plan") by an Act of the General Assembly of the State of Georgia, which originally became effective as of July 1, 1971;

WHEREAS, the Plan was last amended by Ordinance No. 2010-49 of the Clayton County Code of Ordinances; and

WHEREAS, the Board of Commissioners of Clayton County now desires to amend the Plan to exclude employees who are active participants or members in the Employees

Retirement System of Georgia or the Georgia State Employees Pension and Saving Plan, to suspend retirement benefits for participants who are reemployed by a Plan Sponsor as full-time employees after normal retirement age, and to make a miscellaneous change to the definition of Eligible Rollover Distribution (as requested by the IRS in the determination letter application for the Plan);

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLAYTON  
COUNTY AND IT IS HEREBY ORDAINED:

Section I. By the authority granted to Clayton County pursuant to Article IX, Section II, Paragraph I of the Constitution of the State of Georgia of 1983, the Board of Commissioners hereby amends the Clayton County Code of Ordinances, as amended, by amending the Plan effective as of November 1, 2010, except as otherwise provided herein, in the following particulars:

1. By adding the following new sentence to the end of Section 1.6:

“Notwithstanding the foregoing or any other provision of the Plan, effective as of November 1, 2010, a Participant’s Average Monthly Compensation shall not include any period of employment when such Participant is an active participant or member in the Employees Retirement System of Georgia or the Georgia State Employees Pension and Saving Plan (or any successor plan).”

2. By adding the following new paragraph (d) to the end of Section 1.12:

“(d) Notwithstanding the foregoing or any other provision of the Plan, effective as of November 1, 2010, a Participant’s Credited Service shall not include any period of employment when such Participant is an active participant or member in the Employees Retirement System of Georgia or the Georgia State Employees Pension and Saving Plan (or any successor plan).”

3. By adding the following sentence to the end of the first paragraph of Section 1.22:

“Notwithstanding the foregoing or any other provision of the Plan, effective as of November 1, 2010, any Employee (including without limitation any Clayton County elected official) of a Plan Sponsor who is enrolled as or becomes an active participant or member in the Employees Retirement System of Georgia or the Georgia State Employees Pension and Saving Plan (or any successor plan) shall not be an Eligible Employee.”

4. Effective September 21, 2010, by deleting the existing Section 6.6(b) and substituting therefore the following:

“(b) If a Participant is reemployed by a Plan Sponsor as full-time employees after his Normal Retirement Date and after the payment of retirement benefits to him have been made or commenced, the payment of any remaining portion of his retirement benefits shall be suspended during the time he is reemployed. The payment of retirement benefits that have been suspended shall resume following the Participant’s subsequent retirement in the same form of benefit previously made to the Participant prior to his reemployment. Such Participant shall be entitled to any additional Accrued Benefit determined under Plan Section 5 upon his subsequent retirement. The retirement benefit payable upon the Participant’s subsequent retirement will be reduced by the Actuarial Equivalent of the payments received by the Participant, but not below the level of the retirement benefits previously payable to the Participant.”

5. Effective July 1, 2008, by deleting the existing Section 1.24(c) and substituting therefor the following:

“(c) any distribution which is made upon hardship of the employee;”

Section II. In the event any section, paragraph, subpart, sentence, clause, phrase or word of this Ordinance shall be declared or adjudged unconstitutional or invalid by any Court, such declaration or adjudication shall not affect the remaining portions of this Ordinance which shall remain in full force and effect as if the portions declared invalid or unconstitutional had never been enacted into law.

Section III. All laws, ordinances or resolutions, or parts thereof, in conflict with provisions of this Ordinance are hereby repealed.

Section IV. This Ordinance shall become generally effective as of the dates provided herein upon its approval by the Board of Commissioners after the second reading of the Ordinance, provided the same receives an affirmative vote of three or more members, and provided further that a copy of the Ordinance has been published in the official organ of Clayton County and filed with the Secretary of the State of Georgia as required by law.

SO ORDAINED, this 21<sup>st</sup> day of September, 2010.

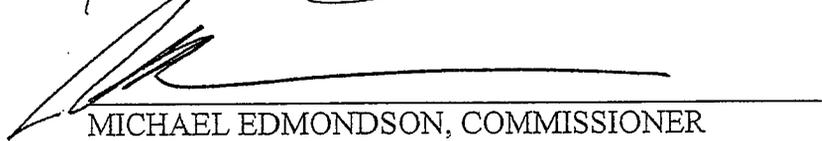
CLAYTON COUNTY BOARD OF COMMISSIONERS

  
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WOLF RALPH, VICE-CHAIRMAN

  
GAIL B. HAMBRICK, COMMISSIONER

  
SONNA SINGLETON, COMMISSIONER

  
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ATTEST:

  
SHELBY D. HAYWOOD, CLERK