

ORDINANCE NO. 2009- 33

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 MODIFY THE DEFINITION OF ELIGIBLE EMPLOYEE; TO MAKE THE 60 AND 114 MONTH BENEFIT OPTIONS AVAILABLE TO PARTICIPANTS WHO RETIRED IN DECEMBER 2008; 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 amended and restated by Ordinance No. 2008-222 of the Clayton County Code of Ordinances; and

WHEREAS, the Board of Commissioners now desires to amend the Plan to modify the definition of eligible employee and to make the 60 and 114 month benefit options available to participants who retired in December 2008;

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 July 1, 2008, except as otherwise provided herein, in the following particulars:

1. By deleting the existing Section 1.22 and substituting therefor the following:

“1.22 ‘Eligible Employee’ means any Employee of a Plan Sponsor who is (a) a Commissioner of Clayton County; (b) a department head or staff member appointed by the Board of Commissioners; (c) employed under the Clayton County Civil Service System in a classified position; (d) a judicial secretary appointed by the Judges of the Clayton County Superior Court to perform services for the Superior Court; (e) an Associate Juvenile Court Judge; (f) a Probate Court Judge; (g) a Magistrate; (h) the Clerk of the Superior Court and, effective January 1, 2001, the Clerk of the State Court and court clerks appointed by such Clerks; (i) effective December 1, 2000, the Chief Court Orderly; (j) the Superior Court/State Court Administrator; (k) the Sheriff; (l) the Chief Deputy Sheriff; (m) a Tax Commissioner; (n) a Deputy Tax Commissioner; (o) effective as of the date that a State Court Judicial Secretary was no longer classified as employed under the Clayton County Civil Service System, a State Court Judicial Secretary; (p) classified in a regular full-time employee Clayton County Water Authority position; or (q) appointed by the Clayton County Water Authority Board of Directors.

All other Employees shall not be Eligible Employees, including but not limited to (a) a leased employee within the meaning of Code Section 414(n)(2) or (b) any person deemed to be an Employee of a Plan Sponsor pursuant to regulations under Code Section 414(o). In addition, no person who is initially classified for a period by a Plan Sponsor as an independent contractor for federal tax purposes shall be regarded as an Eligible Employee for that period, regardless of any subsequent independent determination that any such person should have been characterized as a common law employee of the Plan Sponsor for the period in question.”

2. By deleting the existing Section 1.25 and substituting therefor the following:

“1.25 ‘Employee’ means any person who is, with respect to a Plan Sponsor, (a) a regular full-time employee who performs services for the benefit of a Plan Sponsor who is paid with funds of the Plan Sponsor which are not reimbursed by the State of Georgia, (b) a leased employee within the meaning of Code Section 414(n)(2), or (c) deemed to be an employee pursuant to regulations under Code Section 414(o). For purposes of this Section, a regular Employee is one who is not classified as ‘temporary’ under the Clayton County Civil Service System or by the Clayton County Water Authority. For purposes of this Section and Section 1.22, a ‘full-time employee’ is one who is regularly scheduled to work a minimum of 40 hours per week.”

3. By adding the following new paragraph to the end of Section 6.2(b), effective as of January 1, 2009:

“Notwithstanding the foregoing, for purposes of this Section 6 only, a Participant whose last day of employment with a Plan Sponsor in connection with a retirement was in December 2008 and who was eligible or would have been eligible to commence payment under the Plan in January 2009, may elect to receive his

retirement benefit in any of the alternate forms of payment specified above. If such a Participant previously elected to receive his retirement benefit in the Normal Fund Payment or in one of the alternate forms of payment specified in Subsection (b)(1) or (b)(2) above, such Participant may elect, in the manner prescribed by the Plan Administrator, on or before April 30, 2009, to change his form of payment to either the alternate form of payment specified in Subsection (b)(3) or in Subsection (b)(4). The retirement benefit payable upon the Participant's new form of payment election will be reduced by the Actuarial Equivalent of any retirement benefit payments already received by the Participant."

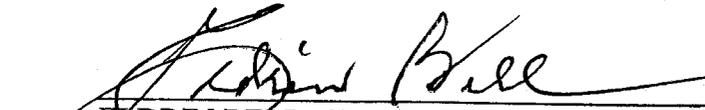
Section II. In the event any section, paragraph, subpart, sentence, clause, phrase or word of this Ordinance shall be declared or adjudged unconstitutional or invalid by any Court, such declaration or adjudication shall not affect the remaining portions of this Ordinance which shall remain in full force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

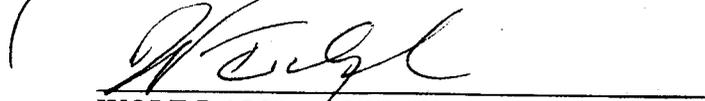
Section III. All laws, ordinances or resolutions, or parts thereof, in conflict with provisions of this Ordinance are hereby repealed.

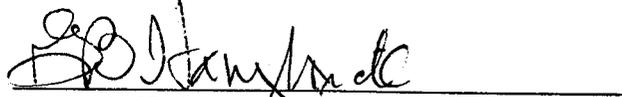
Section IV. This Ordinance shall become generally effective as of the dates provided herein upon its approval by the Board of Commissioners after the second reading of the Ordinance, provided the same receives an affirmative vote of three or more members, and provided further that a copy of the Ordinance 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 3<sup>rd</sup> day of March, 2009.

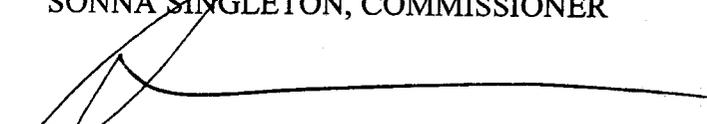
CLAYTON COUNTY BOARD OF COMMISSIONERS

  
ELDRIN BELL, CHAIRMAN

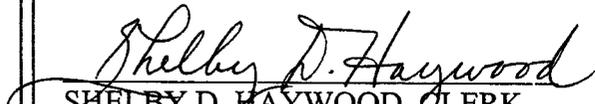
  
WOLE RALPH, VICE CHAIRMAN

  
GAIL B. HAMBRICK, COMMISSIONER

  
SONNA SINGLETON, COMMISSIONER

  
MICHAEL EDMONDSON, COMMISSIONER

ATTEST:

  
SHELBY D. HAYWOOD, CLERK