

A HOME RULE ORDINANCE

BY THE BOARD OF COMMISSIONERS OF DEKALB COUNTY, GEORGIA UNDER THE HOME RULE PROVISIONS FOR COUNTIES OF THE CONSTITUTION OF THE STATE OF GEORGIA, TO AMEND AN ACT CREATING THE DEKALB COUNTY PENSION BOARD, KNOWN AS GA. LAWS 1962, P. 3088, *ET SEQ.*, AS AMENDED TO AMEND THE PROVISIONS RELATING TO COMPENSATION, MILITARY LEAVE, AND FOR OTHER PURPOSES.

BE IT ORDAINED by the Board of Commissioners of DeKalb County, Georgia, and it is hereby ordained by the authority of same, pursuant to the home rule provisions for counties of the Constitution of the State of Georgia, that the Act, as amended, creating the DeKalb County Pension Board, known as Ga. Laws 1962, p. 3088, *et seq.*, as amended, be and the same is hereby further amended as follows:

PART I.

Section 8(a)(1) (codified as Section 908(a)(1) of the Code of DeKalb County, Georgia) is amended by deleting this section and replacing same with the following:

Compensation shall mean the actual compensation paid as salary to a participant by the county as herein provided during any calendar month, exclusive of overtime pay, reimbursed expenses, bonuses, commissions, and any other remuneration. Any increase in the annual Compensation limit is effective as of January 1 of a calendar year and applies to any plan year beginning in that calendar year. Beginning after December 31, 1993, only the first \$150,000 of compensation shall be taken into account (and beginning January 1, 1995, such other amount as may be determined under IRC 401(a)(17)(B)).

Section 18 (codified as Section 918 of the Code of DeKalb County, Georgia) is amended by adding to the end of this Section the following additional provisions:

- (a) The Plan will grant continuous service in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (38 USC 4301-4333) for a Participant who was an Employee immediately prior to the commencement of military service as defined in USERRA, provided such Participant returns to employment with the County within the "Required Period" of time set forth in paragraphs (1) through (4) of subsection (b) of this Section. This applies to military service performed

- on or after December 12, 1994. Continuous service shall only be granted if the Participant fulfills the requirements of paragraph (c) of this Section.
- (b) Under USERRA, the "Required Period" depends on the length of Military Service. In general, the Required Period is:
- (1) 1 day after a Participant's Military Service ends (if such service was less than 31 days);
 - (2) 14 days after a Participant's Military Service ends (if such service was more than 30, but less than 181 days); and
 - (3) 90 days after a Participant's Military Service ends (if such service was more than 180 days).
 - (4) If a Participant was hospitalized for or recovering from an illness or injury that was incurred or aggravated during Military Service, USERRA requires that such Participant register for reemployment with the County as soon as he has recovered. Except as otherwise provided by USERRA, this recovery period cannot exceed two years.
- (c) A Participant who enters the Armed Forces of the United States for a period of not more than five (5) years (consecutive or individual years), is separated from active duty under conditions other than a dishonorable discharge, and returns to or makes himself available for work within the period specified in provisions (1) through (4) above in this Section, shall be granted not to exceed one (1) year of continuous service in any one calendar year, up to a maximum of five (5) years of continuous service, for such active duty in the Armed Forces.
- (d) A Participant returning from military service who meets the requirements of subsections (a) and (b) shall have the right to make up his Participant Contributions and thereby receive continuous service equal to his period of military service, to a maximum of five (5) years. Such Participant must notify the Pension Board upon reemployment of his desire to repay his Participant Contributions. Such Contributions shall be made either in a lump sum payment or on a post-tax basis over a period equal to the lesser of three (3) times his military service or five (5) years. The amount of Participant Contributions owed to the Plan shall be equal to the following:
- (1) the Participant contribution rate in effect immediately prior to the commencement of military service, multiplied by
 - (2) the Participant's Compensation for the preceding 12 month period prior to his military service, multiplied by
 - (3) the number of years and months of military service, to a maximum of five (5) years; plus
 - (4) compounded interest at the rate of 3 1/2 % annually.
- (e) To the extent required by USERRA, a Participant must inform the County in writing before entering Military Service in order to be eligible for continuous service as described above.

Section 8(a)(6) (codified as Section 908 of the Code of DeKalb County, Georgia) is amended by deleting the second sentence of this section and replacing same with the following:

For the purpose of calculating early retirement adjustments to IRC Section 415 limitations or for converting a benefit payable as an optional form of payment, the actuarial equivalent shall be computed based on the 1983 Group Annuity Mortality Table, based on fifty percent (50%) male and fifty percent (50%) female, at five percent (5%) interest.

Section 8(b) (codified as Section 908(b) of the Code of DeKalb County, Georgia) is amended by adding the following new subsection 13:

13. A. Direct Rollover of Eligible Rollover Distributions.
Notwithstanding any provision of the Plan to the contrary, that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
 - (a) Definitions
 - (1) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.
 - (2) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in Section 408(b) of the Internal Revenue Code, an individual retirement annuity plan described in Section 408(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
 - (3) Distributee. A distributee includes an employee or former employee, In addition, the employee's or former employee's surviving spouse and the employee's or former

employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order (QDRO), as defined in Section 414(p) of the Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse.

- (4) Direct Rollover. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

PART II.

All laws or parts of laws in conflict with this ordinance are hereby repealed.

PART III.

Should any part, portion, or paragraph of this ordinance be declared unconstitutional or void by a court of competent jurisdiction, such declaration shall not affect the remaining portions of this ordinance not so declared to be invalid, but the same shall remain in full force and effect as if separately adopted.

PART IV.

This ordinance shall be presented to the Board of Commissioners of DeKalb County, Georgia for adoption at two regular, consecutive meetings of the County Commissioners, held not less than seven (7) nor more than sixty (60) days apart after notice containing a synopsis of the proposed amendment shall have been published in the official organ of DeKalb County once a week for three (3) weeks within a period of sixty (60) days immediately preceding its final adoption, such notice stating that a copy of the proposed amendment is on file in the office of the Clerk of Superior Court of DeKalb County for the purposes of examination and inspection by the public.

PART V.

This ordinance shall be first presented to the Board of Commissioners of DeKalb County, Georgia on the ____ day of _____, 2003 and again on the ____ day of _____, 2003 at the regular time and place of the meeting of the Board of Commissioners of DeKalb County, Georgia.

PART VI.

A copy of this ordinance shall be filed with the Clerk of the DeKalb County Superior Court for the purpose of examination and inspection by the public along with sufficient copies of same for distribution to those members of the public.

PART VII.

The provisions of this ordinance shall become effective upon its adoption.

ADOPTED by the DeKalb County Board of Commissioners this 25th day of November, 2003.



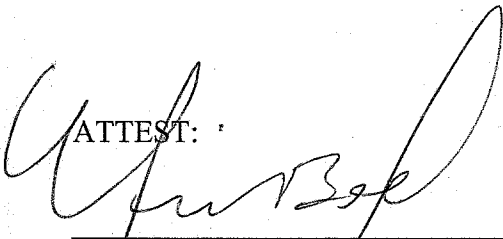
BURRELL ELLIS
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, Georgia this 25th day of November, 2003.



VERNON JONES
Chief Executive Officer
DeKalb County, Georgia

ATTEST:



MICHAEL J. BELL, Ex-Officio Clerk
Board of Commissioners and Chief
Executive Officer, DeKalb County, Georgia

APPROVED AS TO FORM:



CHARLES G. HICKS
County Attorney
DeKalb County, Georgia