

ORDINANCE NO. 090969

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An ordinance of the City of Gainesville, Florida, amending Division 5 of Article VII of Chapter 2 of the City of Gainesville Code of Ordinances relating to the City of Gainesville Employees Pension Plan; creating a subsection (n) of Section 2-523, to allow purchase of credited service attributable to certain temporary employment prior to regular employment; making conforming and administrative amendments; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the Auditorium of City Hall in the City of Gainesville; and

WHEREAS, a Public Hearing was held pursuant to the published notice described at which hearing the parties in interest and all others had an opportunity to be and were, in fact, heard;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Subsection (n) of section 2-523 of the City of Gainesville Code of Ordinances is hereby created and added to read as follows:

Sec. 2-523. *Membership and service.*

(n) Temporary service prior to regular employment. A member who was actively employed on December 11, 2009 or thereafter as a regular employee, and is not receiving, as of September 15, 2010, a termination or retirement benefit, or then participating in the DROP, may have the months(s) that the member was employed as a full-time temporary employee with the

1 City, added to his/her years of credited service, notwithstanding section 2-523(d), provided that:

2 1. The incident(s) of temporary employment sought to be added is/are each a
3 minimum of six (6) continuous months, ending no more than 30 days preceding a
4 period of regular employment with the City for which credited service has been granted,
5 or in the case of consecutive incidents of temporary employment (no break in service of
6 more than 30 days), the last of which ended no more than 30 days preceding a period of
7 regular employment with the City for which credited service has been granted.

8 2. The member contributes to the fund an actuarially determined amount so that
9 service purchased pursuant this subsection (n) does not result in increase to the City's
10 contribution to the Plan. For purposes of purchasing service, the Plan will accept cash
11 or a transfer of all or part of a member's account in the City of Gainesville's 457
12 Deferred Compensation Plan or 401(a) defined contribution plans, and will accept
13 rollover contributions and/or direct rollovers of distributions (including after tax
14 contributions) made after December 31, 2001, that are eligible for rollover in
15 accordance with Section 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), or 457(e)(16) of
16 the Code, from of the following types of plans: (1) a qualified plan described in Section
17 401(a) or 403(a) of the Code; (2) an annuity contract described in Section 403(b) of the
18 Code; (3) an eligible plan under Section 457(b) of the Code, which is maintained by a
19 state, political subdivision of a state, or any agency or instrumentality of a state or
20 political subdivision of a state; and (4) an individual retirement account or annuity
21 described in Section 408(a) or 408(b) of the Code (including SEP's and Simple IRA's
22 after two years of participation in the Simple IRA). The amount distributed from such

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 plan must be rolled over to this Plan no later than the 60th day after distribution was
2 made from the plan, unless otherwise waived by the IRS pursuant to Section 402(c)(3)
3 of the Code. The Plan shall absorb the cost of professional services for obtaining one
4 actuarial estimate for a member. Any subsequent estimates shall be paid for in advance
5 by the requesting member.

6 3. Purchase of credited service attributable full-time temporary employment prior to
7 regular employment shall be for each entire incident of temporary employment sought
8 to be purchased. In the case of a member not actively employed as a regular employee
9 on October 7, 2010, and a member/regular employee actively employed on October 7,
10 2010, who has satisfactorily completed his/her initial probation period prior to October
11 7, 2010, such member(s) shall have 60 days from November 1, 2010 to purchase any
12 and all eligible incidents of temporary employment ending prior October 7, 2010. In
13 the case of eligible incidents of temporary employment ending after October 7, 2010, or
14 in the case of a member who has not completed his/her initial probation period by
15 October 7, 2010, such must be purchased within 60 days of the member vesting in the
16 Plan.

17 4. Payment by the member of the required amount shall be made in one lump sum
18 payment, upon receipt of which credited service shall be given, except as provided in
19 subsection 5 below.

20 5. Except as provided in subsection 6 below, service for which payment has been
21 made pursuant to subsection 4 above shall not be deemed credited service under the
22 Plan until such date that the member is otherwise eligible for normal retirement under

1 section 2-526(a)(1) or has reached age fifty-five (55). In the event a member (or his or
2 her beneficiary) begins receiving an amount under section 2-526(a)(3) or a benefit
3 under Division 6 of Article VII of Chapter 2 (Disability Pension Plan Benefit), the
4 payments made pursuant to subsection 4 above shall be returned to member or
5 beneficiary without interest at such time and no credited service given for the temporary
6 employment.

7 6. Service may be purchased, and credited, or previously purchased service credited,
8 in advance of retirement eligibility as described in subsection 5 above under the
9 following circumstances: When a member who is a regular employee at time of death
10 has at least 80% of the credited service, including sick leave or PCLB, necessary for
11 normal or early retirement, and meets the applicable age requirements for such, if any.
12 In this circumstance, purchased temporary service shall be credited if such service,
13 including any additional service purchased as described in the following sentence,
14 would result in the member's beneficiary becoming entitled to receive an annuity
15 benefit. If service so eligible for purchase existed, but was not purchased prior to death,
16 the member's beneficiary shall have 90 days following the date of death of the member
17 to purchase the service necessary to receive an annuity.

18 7. The maximum credit purchased under this subsection (n) shall be four years.

19 8. Credited service purchased pursuant to this subsection (n) shall count for all
20 purposes under the Plan.

21 9. Purchase of credited service for temporary service prior to regular employment
22 may not be requested unless the member has already earned at least five years of

1 credited service at the time of the request.

2 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of this
3 Ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville,
4 Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered
5 in order to accomplish such intentions.

6 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or
7 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect
8 the validity of the remaining portions of this ordinance.

9 **Section 4.** All ordinances or parts of ordinances in conflict herewith are to the extent of such
10 conflict hereby repealed.

11 **Section 5.** This ordinance shall become effective immediately upon adoption.

12 **PASSED AND ADOPTED** this _____ day of _____, 2010.

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CRAIG LOWE
MAYOR

19 ATTEST:

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Approved as to form and legality

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KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

27 This Ordinance passed on first reading this _____ day of _____, 2010.

28 This Ordinance passed on second reading this _____ day of _____, 2010.

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