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# Retirement System

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Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

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# Retirement System

## Private Acts of 1939 Chapter 557

**COMPILER'S NOTE:** Private Acts of 1943, Chapter 121, and Private Acts of 1961, Chapter 362, which follow this act, made broad amendments to Private Acts of 1939, Chapter 557, and should be read in conjunction with this act.

**SECTION 1.** That there is hereby created a system of retirement, insurance, compensation and benefits for employees of Hamilton County who have been employed by and have served Hamilton County for a minimum number of years as provided, and have reached retirement age as provided; and there is hereby created an Employees Insurance Fund to be sustained by contributions from the County and the county employees as provided.

Any present member of the Hamilton County Employees Retirement System is hereby allowed to become a member of the Tennessee Consolidated Retirement System as prescribed by the County Board of Commission, and as provided by Title 8, Chapter 35, Part 2, if such membership is established by January 1, 1991.

As amended by: Private Acts of 1990, Chapter 199

**SECTION 2.** That the provisions of this Act shall apply to all employees of the county falling under the following classifications, to wit: Persons regularly employed directly by the county or any department of county government and paid salaries and compensation; persons regularly employed by the elected or appointed officials of the county and paid salaries and compensation; persons appointed by the State courts in the county to positions authorized by law and paid regular salaries and compensation; person elected or appointed to official positions and paid salaries or compensation directly by the county, or from income derived from the operation of the respective offices; persons elected or appointed by the county court to positions authorized by law and paid salaries and compensation; Field Deputy Sheriffs appointed by the Sheriff pursuant to the provisions of Section 10734 of the 1932 Code of Tennessee whose salaries arise from legal fees earned by them, as provided by statute, for misdemeanor and criminal work and civil work before the courts of this county.

The word "Employee" as used in this Act shall embrace and include all persons within the classifications above described. "Salaries and compensation", as used in this Act, shall mean the amount any employee may be entitled to receive for personal services as provided by law at a fixed amount per annum, per month or per diem, and shall be limited to the basic salary and compensation without additions for allowances for extra services, expenses or perquisites, such as food, lodging, transportation or other contributions. But the benefits and obligations of said Field Deputies shall be based on the actual compensation that they receive rather than on fixed salaries as in the case of other employees and officials.

Officials presently or hereafter holding elective office shall be entitled to credit for their entire tenure of service prior to the passage of this Act provided they pay into the Pension Fund within one year from March 1, 1951, an amount equal to the contributions they would have been required to make if eligible, however, upon application the Pension Board may extend the time for back payment an additional year.

Persons presently or hereafter holding Field Deputy Sheriff positions shall be entitled to credit for their entire tenure of service prior to the passage of this Act provided they pay unto the Pension Fund, within one year from the effective date of this Act, an amount equal to the contributions that they would have been required to make, if eligible, on the basis of a salary of One Hundred Fifty (\$150.00) Dollars per month.

The provisions of this Act shall also include all full time employees of the Department of Education and the Department of Health, who are paid by County check and who are not eligible to participate in any other retirement program, but such eligible employees will not be entitled to credit for service prior to the effective date hereof. The Department for such participating employees will pay the County's proportionate contribution into the fund from its respective annual appropriation or operating budget. Employees eligible hereunder who are fifty (50) years of age or over may decline to participate in this plan, provided they notify the County Pension Board in writing of such action within ninety (90) days from and after the effective date hereof.

That the provisions of this Act shall apply also to employees of the county falling under the following classifications: Persons regularly employed by the elected and appointed officials of Hamilton County who receive, or have received as compensation therefor a stated commission as provided by law for services rendered; persons elected to office in Hamilton County whose salary or compensation is paid in whole or

in part by Hamilton County and who thereafter become employees of said County; persons appointed by the state courts and the district attorney general in the County to positions authorized by law and paid regular salaries and compensation by the state and/or county; and the word "employee," as used in said Act, shall embrace and include all persons within the classifications described herein and the commission and compensation for such as used in this Act mean the amount said employee may be entitled to receive for personal services rendered as provided by law as a commission. Persons presently, heretofore or hereafter holding said positions shall be entitled to credit for the entire tenure of service prior to the passage of this Act provided they pay into the Pension Fund within one year from March 1, 1953, an amount equal to the contributions that they would have been required to make, if eligible under the provisions of this amended Act, on the basis of a commission or compensation of \$250.00 per month. However, upon application, the Pension Board may extend the time for back payment an additional year. As amended by:

Private Acts of 1949, Chapter 134  
Private Acts of 1951, Chapter 481  
Private Acts of 1953, Chapter 65  
Private Acts of 1969, Chapter 80

**SECTION 3.** (a) Contribution to Fund. For the purpose of creating a fund known as the "Employees Insurance Fund" (the "Fund"), the County and the employees of the County are required to contribute the percentage of salaries and compensation as herein provided.

(b) Trustee. The County Pension Board shall be the Trustee of the Fund.

(c) Investment Authority. The Trustee shall have full power to invest and reinvest the assets of the Fund in securities which, as of the time of the investment, are permissible investments under Tennessee Code Annotated, Section 56-3-303 (relating to authorized investments of reserves by domestic life insurance companies). Notwithstanding the foregoing: (1) the total sum invested in common and preferred stocks (including investments in "Collective Funds", as defined below, which invest in common or preferred stocks), shall not exceed fifty percent (50%) of the total value of the Fund; and (2) for purposes of this Section, the one percent (1%) limitation of Tennessee Code Annotated, Section 56-3-303(a)(4)(C) (relating to investments in common stocks) shall not apply to investments by the Fund in securities or units of any Collective Fund, but in no event shall investment by the Fund in any one Collective Fund exceed twenty percent (20%) of the value of the Fund at the time of the original investment, whether such Collective Fund invests its assets in common or preferred stocks, bonds or other investments permissible hereunder. For the purposes of this section, "Collective Funds" shall mean (A) any open-end or closed-end management investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. Section 80a1-64, and (B) any common trust fund, within the meaning of Section 584 of the Internal Revenue Code of 1986, as amended. Subject to the limitations set forth herein, the Trustee shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities or investments held by the Fund, as well as the proceeds, of such investments and any monies belonging to the Fund.

(d) Charges. It shall be the duty of the Trustee to estimate the amount of charges against the Fund for any annual period and retain a sufficient amount with the current collections to provide for the payment of such charges.

There shall be included in the annual county budget a sum sufficient to pay the contribution of the County to such fund, and if necessary a special tax may be levied for such purposes.

As amended by:  
Private Acts of 1969, Chapter 80  
Private Acts of 1974, Chapter 356  
Private Acts of 1995, Chapter 75

**SECTION 4.** For the fiscal year 1981-82 and thereafter so long as is considered necessary by the Pension Commission to keep the fund actuarially sound, or until said amount is changed by a subsequent actuarial report to be made within five (5) years from July 1, 1981, there shall be made annually a contribution of \$152,511.00. Contributions thereafter shall be made as determined by said actuarial report until adjusted by subsequent actuarial reports from time to time required by law.

All covered employees as of the effective date hereof, shall contribute to such fund six and four tenths (6 4/10%) percent of the salaries and compensations received hereafter during their employment, payable monthly, subject to other provisions hereof.

The basis of contributions by the employees shall be the percentage specified, but the maximum amount such percent shall apply to in all events shall be eight hundred dollars (\$800.00) per month. This base salary shall also be used to compute any future retiree benefits.

The county shall contribute as its share of contributions to the fund the difference in the amount determined by the actuarial report to keep the fund actuarially sound and the amount raised by employee contributions or, other participant contributions.

As amended by:  
Private Acts of 1941, Chapter 491  
Private Acts of 1949, Chapter 134  
Private Acts of 1953, Chapter 65  
Private Acts of 1965, Chapter 197  
Private Acts of 1969, Chapter 80  
Private Acts of 1974, Chapter 356  
Private Acts of 1978, Chapter 268  
Private Acts of 1981, Chapter 156

**SECTION 5.** That it shall be the duty of the County Judge to prepare a roll of employees before July 1st, 1939, and such roll shall show the name and age and the service of each employee as of September 1st, 1939, and the salary and compensation of each employee upon which the contribution to such fund shall be based, and the percentage of such salary and compensation to be contributed by each employee.

The payments and contributions to such fund shall begin on July 1st, 1939, but no payments or allowances shall be made out of such fund until September 1st, 1939, thereafter, and eligibility of all employees shall be based upon such period.

When an employee becomes eligible for payments from such fund, the County Judge shall certify such fact to the Trustee, showing the amount to be paid and the basis of such payment.

It shall be the duty of the officials charged with the duties of paying salaries and compensation to employees hereby affected, to deduct from the monthly pay of each employee the percentage herein provided and established by the County Judge, and to pay such amounts to the Trustee to be credited to such fund.

**SECTION 6.** [Deleted by Private Acts of 1941, Chapter 491].

**SECTION 7.** Any employee who has served ten (10) years and less than fifteen (15) years, who becomes totally disabled for useful and efficient service, shall be retired and shall receive compensation from the Employees' Insurance Fund based upon thirty (30) percent of his salary and compensation as fixed for the purposes of paying contributions to such fund.

Any employee who has served fifteen (15) years and less than twenty (20) years, and has become likewise disabled shall be retired, and shall receive compensation from the Employees' Insurance Fund based upon forty (40) percent of his salary and compensation as fixed for the purpose of paying contributions to such fund.

Any employee who has served twenty (20) years or more who has not reached the retirement age who has become likewise disabled, shall be retired and shall receive compensation based upon fifty (50) percent of his salary and compensation as fixed for the purpose of paying contributions to such fund.

Before an employee is retired for disability under the provisions of this Section, such disability shall first be determined by the Federal Social Security Administration Office, and its findings shall be and become binding upon the employee and the County Pension Board.

Every employee retired under the above provisions shall submit to a physical examination as and when required by the Pension Board, and shall be subject to recall to some County employment if it shall be determined by the Social Security Office and the County Pension Board that such retired employee has become able to serve in his original or other suitable position. If such employee is offered suitable employment and declines to accept such, he shall forfeit all rights to compensation under this Act.

**SECTION 8.** All employees coming under this plan on and after the effective date hereof shall not be eligible for retirement benefits as otherwise provided for by the plan, except disability benefits, unless and until they have attained the age of sixty five (65) years, and have completed twenty (20) years of qualified service at which time those who so qualify will be entitled to monthly retirement compensation based upon forty (40%) per cent of his or her highest average salary for any four (4) year period of service, subject to the maximum amount specified in Section IV.

All employees coming under this plan on and after the effective date hereof who have served for at least twenty-four (24) years and have reached age sixty-five (65) or more, may retire and shall receive monthly retirement compensation based upon fifty (50%) per cent of his or her highest average salary for any four (4) year period of service, subject to the maximum amount specified in Section IV.

Any employee coming under this plan on and after the effective date hereof who has served for a period of less than twenty (20) years, and for any reason becomes separated from the County employment shall be reimbursed from such fund the full amount contributed by him or her thereto; provided, that should such person again be employed by the County, they will not be given service credit for the time previously employed unless, within ninety (90) days from the date of re-employment, the person repays to the retirement fund the amount withdrawn plus six (6%) per cent interest on such amount from the date of

withdrawal.

Be it remembered that this Section applies only to employees coming under this plan on and after the effective date hereof and does not apply to employees covered prior hereto since the retirement requirements for employees so covered are otherwise provided for under said Act, as amended.

As amended by:  
Private Acts of 1941, Chapter 491  
Private Acts of 1949, Chapter 134  
Private Acts of 1951, Chapter 481  
Private Acts of 1957, Chapter 317  
Private Acts of 1965, Chapter 197  
Private Acts of 1969, Chapter 80

**SECTION 9.** That employees and officials who have served twenty (20) years or more, and have not reached the retirement age of fifty-five (55) years, who become involuntarily separated from the service of the county, and not by removal for cause on charges of misconduct or delinquency, shall have the right to elect: (a) to be reimbursed the full amount of the contributions made to such fund by such employee or official; or (b) if fifty (50) years of age at the time, to continue to pay the same contribution to the Pension Fund as that being paid at time of separation, until the retirement age is reached, at which time the retirement with full compensation rights may be had; or (c) if fifty (50) years of age at the time of involuntary separation he may accept retirement compensation based upon forty (40%) per cent of his highest average salary for any four (4) year period of service; or (d) to defer action pending reinstatement or reemployment by the county and restoration to full compensation rights. If (d) is adopted the time lost between separation and reemployment shall not be considered.

Employees who have served fifteen (15) years and less than twenty (20) years, and who have become involuntarily separated from the employment of the county, and not by removal for cause on charges of misconduct or delinquency shall have the right to elect; (a) to be reimbursed the full amount of the contributions made to the fund by such employee or official; or (b) if fifty (50) years of age at the time, to continue to pay the same contribution to the fund as at the time of separation, until retirement age of fifty-five (55) is reached, at which time the employee shall be entitled to compensation based upon thirty-five (35%) per cent of the highest average salary for any four (4) year period of service; or (c) to defer action pending reinstatement or reemployment by the county and restoration to full compensation rights. If (c) is adopted, the time lost between separation and reemployment shall not be considered.

Payments or retirement compensation shall be made monthly and shall continue during the life of the retired employee or official, or so long as he remains eligible for same.

No retired employee or official shall be paid compensation hereunder who, after retirement accepts any lucrative position with Hamilton County, Tennessee or any agency thereof.

Any employee or official who becomes separated from the county employment having served less than five (5) years shall be reimbursed from such fund ninety (90%) per cent of the full amount contributed by him after the effective date of this Act and the full amount contributed by him prior to such date while those having served five (5) years or more shall be reimbursed the full amount contributed by them; provided that should such person again be employed by the county he shall not be given service credit for such time as he was previously employed unless he repays to such fund the amount he had withdrawn with six (6%) per cent interest.

Upon the death of any county employee or official, the nearest relative of said employee or official will be paid the full amount of contributions that he had paid in to the Pension Fund at the time of death.

That should an employee or official die after retirement and before the full amount of contributions that he had paid into the pension fund at the time of his death has been exhausted, then in that event the nearest relative of the employee or official will be paid the balance of said contributions remaining.

As amended by:  
Private Acts of 1949, Chapter 134  
Private Acts of 1969, Chapter 80

**SECTION 10.** Any employee who becomes entitled under the provisions of this Act to compensation by reason of retirement or involuntary separation from his employment, who has not contributed to the Employees Insurance Fund for a period totaling ten (10) years shall have deducted monthly from his pension or compensation the proper sum based on the amount of contribution being made at the time of retirement or separation, until he has contributed to said fund for a period totaling (10) years, but no employee entitled to retirement by reasons of total disability shall make further contributions to the fund.

All employees of the county coming within the purview of this Act, who left the employment of the county to enter the Armed Forces during World War II, and served with the Armed Forces during the period from December 7, 1941 and January 1, 1947, shall be given credit for such service in computing tenure of service toward retirement, under this Act.

As amended by: Private Acts of 1941, Chapter 491  
Private Acts of 1943, Chapter 121  
Private Acts of 1949, Chapter 134  
Private Acts of 1951, Chapter 481  
Private Acts of 1953, Chapter 65  
Private Acts of 1961, Chapter 370

**SECTION 11.** That every employee shall be obliged to make contributions to such fund as herein provided, and the County through its authorized agents shall enforce the collections; and, notwithstanding such obligations of the employees, if any employee should be in default of the payment of such obligation for the period of thirty (30) days he shall be treated as suspended from all benefits of such Insurance Fund for the period of default and six (6) months thereafter, and shall lose all benefits of disability or separation occurring during such suspended period.

The Act shall apply to employees and officials of institutions solely owned by Hamilton County and operated through trustees, or other agencies appointed under the provisions of existing law, without regard to the fact that any municipality in said County contributes to the improvement and operating expense of such institution. The Act shall not apply to work or service in positions of a temporary nature, meaning those not in the regular, usual and continuous functions of the County Government.

As amended by: Private Acts of 1941, Chapter 491  
Private Acts of 1943, Chapter 121  
Private Acts of 1957, Chapter 363  
Private Acts of 1941, Chapter 491

**SECTION 12.** That should any part of this Act be declared invalid, as applying to certain employees of the County, the remaining part of the Act legally applying to other employees shall be treated as separable and valid.

**SECTION 13.** That this Act take effect from and after its passage, the public welfare requiring it.

**SECTION 14.** Wherein this Act, or any amendments thereto, refer to the word "Trustee", the same shall mean the Hamilton County Pension Board.

**SECTION 15.** The Pension Board is hereby required to have an actuarial study made of this program at least once every five (5) years, and if not actuarially sound to revise the same and to request indicated legislation therefore. The cost of the study shall be paid from the Pension Fund.

**SECTION 16.** By filing an application with the Pension Commission, an Employee may elect to receive a Pension payable in accordance with one of the following options:

- (1) Employees eligible for retirement may elect full benefits as provided in the Plan which shall exclude continued payment to spouse following death.
- (2) The Employee shall receive a reduced Pension payable for life, and payments in the amount of 100% of such reduced Pension shall, after the Employee's death, be continued to the spouse during the latter's lifetime.
- (3) The Employee shall receive a reduced Pension payable for life, and payments in the amount of 75% of such reduced Pension shall, after the Employee's death, be continued to the spouse during the latter's lifetime.
- (4) The Employee shall receive a reduced Pension payable for life, and payments in the amount of 50% of such reduced Pension shall, after the Employee's death be continued to the spouse during the latter's lifetime.

The aggregate of the Pension payments expected to be paid to an employee and/or his spouse under options 2, 3 and 4 shall be the Actuarial Equivalent of the Pension which the Employee is otherwise entitled to receive upon Retirement based on mortality and interest rate assumptions approved from time to time by the Pension Commission, copies of which are on file with the Pension Commission and available to the Employees at time of retirement to enable them to select desired option.

An Employee may elect or revoke an option prior to Retirement by filing such election or revocation in writing with the Commission prior to Retirement. Under no circumstances may an option be changed or revoked after the Employee's Retirement.

An election made pursuant at this Section shall become inoperative in the event the Employee's death occurs prior to actual Retirement; or, the death of the spouse occurs before the Employee's actual Retirement.

The above options shall also apply to those retiring under disability benefits as otherwise provided in the Plan.

Nothing herein shall be construed as to mean that any Employee shall receive less than the minimum benefit as otherwise provided in the Plan upon selection of Option 1. Employees selecting Option 2, 3 or 4 will be subject to receiving less than the minimum benefits as otherwise provided.

As amended by: Private Acts of 1974, Chapter 356

**SECTION 17.** In determining the amount of pension due an employee, the Pension Commission shall base their computations upon the four highest Employee contribution years and the pension amount shall be limited accordingly; subject only to the minimum amount as otherwise provided in the Plan.

As amended by: Private Acts of 1974, Chapter 356

**SECTION 18.** That the County Council of Hamilton County may allow the then current employees of Hamilton County who are presently members of the Hamilton County Employee Pension System the option of becoming members in the Tennessee Consolidated Retirement System, as hereinafter provided at such time as the county council shall determine such action is desirable. In the event such an option is made available to the said employees of Hamilton County, the election of said option by such an employee shall become binding on said employee at the time such election is filed with the secretary of the Board of Pension Commissioners of the Hamilton County, after membership is initially allowed by the County Council in the Tennessee Consolidated Retirement System, shall become a member of the Tennessee Consolidated Retirement System as a condition of employment, and membership in the Hamilton County Employee's Pension System shall thereafter be closed except Hamilton County Nursing Home may elect to remain under the Hamilton County Employees' Pension System.

As amended by: Private Acts of 1977, Chapter 122

**SECTION 19.** In the event membership in the Tennessee Consolidated Retirement System is allowed by the county council, an actuarial study of the Hamilton County Employees Pension System shall be conducted and all funds in excess of those needed to keep the system actuarially sound may, at the option of the county council, be paid into the Tennessee Consolidated Retirement System to reduce any prior service liability caused by the membership of Hamilton County Employees in the Tennessee Consolidated Retirement System.

**SECTION 20.** In the event provisions are made for employees of Hamilton County to become members of the Tennessee Consolidated Retirement System and receive prior service credit under one of the following options, the Hamilton County employee electing to terminate his or her membership in the Hamilton County Employees Pension System shall receive such refunds of their actual contributions to the Hamilton County Employees' Pension Fund according to such options.

(a) In the event the county council elects, by majority vote of said governing body, to provide all funding for all prior service of all eligible employees of Hamilton County, all contributions made by every such employee to the Hamilton County Employees' Pension System shall become the property of the Hamilton County Employees' Pension Fund. If this employee transfers into the Tennessee Consolidated Retirement System and subsequently ceases to be an employee of Hamilton County and withdraws from membership in the Tennessee Consolidated Retirement System prior to his retirement, such employee shall be refunded his actual contributions to the Hamilton County Employees' Pension Fund; or

(b) In the event the county council elects, by majority vote of said governing body, to provide funding by Hamilton County for ten (10) years of employment for all eligible employees of Hamilton County, all actual contributions made by every such employee to the Hamilton County Employees' Pension System during the last ten (10) years of such county employment shall become the property of the Hamilton County Employees Pension Fund. Provided further that any employee may purchase all years of county employment greater than ten (10) years by making employee contributions, plus interest, on such service. Any such service greater than ten (10) years which is not purchased by the employee shall be refunded upon Hamilton County making its initial payment to the Tennessee Consolidated Retirement System. If this employee transfers into the Tennessee Consolidated Retirement System and subsequently ceases to be an employee of Hamilton County and withdraws from membership in the Tennessee Consolidated Retirement System prior to his retirement such employee shall be refunded his actual contributions to the Hamilton County Employees' Pension Fund; or

(c) In the event the county council elects, by majority vote of said governing body, not to provide funding for any years of prior service for any employee of Hamilton County, all actual contributions made by every such employee to the Hamilton County Employees' Pension Fund shall be refunded to such employee after Hamilton County makes its initial payment to the Tennessee Consolidated Retirement System. Provided however, that this employee has the option to purchase all years of prior service with Hamilton County, upon payment of the employee's contributions, plus interest.

(d) That in the event an election is made by the county council to participate in the Tennessee Consolidated Retirement System, the county council may also determine: (a) whether all county employees who have no vested rights under the Hamilton County Employees' Pension System shall be required to transfer membership to the Tennessee Consolidated Retirement System; or (b) whether all



county employees may elect either to remain a member of the present Hamilton County Employees' Pension System or to become a member in the Tennessee Consolidated Retirement System; or (c) whether all county employees may elect to (1) remain a member of the present Hamilton County Employees' Pension System, or (2) to become a member of the Tennessee Consolidated Retirement System, or (3) to be a member of neither; but in no event may an employee receive credit for the same years of service in both systems.

(e) In the event an election is made by the county council to participate in the Tennessee Consolidated Retirement System, credit for prior service as a Hamilton County employee for those employees of Hamilton County who are presently employed by Hamilton County and who are members of the Hamilton County Employees' Pension System shall be certified to the Tennessee Consolidated Retirement System for only that period (or periods) of employment by Hamilton County for which contributions have been made by the employee to the Hamilton County Employees' Pension System, or for which the employee agrees to pay all unpaid contributions thereto in cash (including interest as may be required) based upon a promissory note therefor, within not more than twelve (12) months of said certification of prior service.

As amended by:

Private Acts of 1943, Chapter 44  
Private Acts of 1949, Chapter 134  
Private Acts of 1957, Chapter 168  
Private Acts of 1961, Chapter 371  
Private Acts of 1977, Chapter 122

**SECTION 21.** Any member in service shall be eligible to receive credit for up to four (4) years of military service during a period of armed conflict, as determined by the pension commission, upon payment of five percent (5%) of the base salary as if they had been in the system, with the base salary assumed to be three thousand six hundred dollars (\$3,600) annually. Provided, however, no person may receive credit for military service which is credited in any other retirement system.

As amended by:

Private Acts of 1981, Chapter 156

**SECTION 22.** (a) Any person who is a county commissioner or who becomes a county commissioner may participate in this retirement system upon the terms and conditions established in this section. This section shall apply only to county commissioners, unless otherwise stated herein.

(b) The terms and conditions for participation of county commissioners who have purchased their prior service shall be as follows:

- (1) All prior Hamilton County commissioners shall be entitled to a refund of contributions made, subject to taxation in accordance with the Internal Revenue Code. Furthermore, all prior county commissioners shall have the option to prospectively receive the benefits provided by this act as of the date of passage.
- (2) All service to Hamilton County as a county commissioner shall be allowed as credited service. Any member may also receive credit for up to four (4) years of military service during a period of armed conflict, as determined by the pension commission. However, service which is credited in any other retirement system may not be credited in this system.
- (3) The funds derived from this section shall be held in trust and invested as otherwise provided for in this act.
- (4) The normal retirement date of a county commissioner is the first day of the month following the later of the participant's fifty-fifth (55th) birthday and the fifth (5th) anniversary of the date the participant first served as a county commissioner. Provided, however, a member in service may not receive a retirement benefit.
- (5) Upon retirement, a participant shall receive an annual, normal retirement benefit of two and one-half percent (2.5%) of the average compensation (excluding any additional compensation received by a commissioner for serving as either chairman or chairman pro tempore) for the participant's five (5) years of service which produce the highest average, (years of service being based on twelve (12) month periods commencing September 1 and ending the following August 31) times total years of service.
- (6) If a participant postpones his retirement beyond his normal retirement date, he will be entitled to monthly benefits commencing on the first day of any month following his actual retirement. The deferred retirement benefit is calculated in the same way as the normal retirement benefit, based on the participant's credited service as of his date of retirement.
- (7) If a participant ceases to be a county commissioner after he has completed five (5) or more years of service, but prior to his normal retirement date, he is entitled to a deferred vested benefit, which would commence at his normal retirement date and be figured as in subdivision (b)(5) above based on the participant's credited service at his date of separation. If a participant otherwise

ceases to be a commissioner before retirement, no benefits shall be provided under the plan.

(8) A participant may select an optional method of benefit payment described in Section 16 in lieu of the prescribed life income, which is actuarially equivalent thereto. The purpose of the optional method is to permit the guarantee of retirement income payments for some minimum period of time or to provide a continued life income to a surviving beneficiary after the death of a participant.

As amended by: Private Acts of 1981, Chapter 156  
Private Acts of 2004, Chapter 76

**SECTION 23.** It is the intention of the county that the Hamilton County Employee's Retirement Plan complies with all of the requirements of Internal Revenue Code (hereinafter "Code") Section 401(a) that apply to plans that are sponsored by state or local governments or political subdivisions. The county intends that this plan be considered a tax-qualified plan under Code Section 401(a) and that the retirees and beneficiaries that receive benefits from this plan enjoy the tax-deferred benefits of the plan's qualified status.

In order to assure the tax-qualified status of this plan, this private act is now being amended by the General Assembly to incorporate the following terms as part of the plan document.

This private act, along with other provisions of the law that have been established by acts of the General Assembly of the State of Tennessee and of the Hamilton County Commission that relate to providing retirement benefits for employees of the county, comprises the written documentation requirement of Code Section 401(a)(1).

**SECTION 24.** Assets Held in Trust – Assets maintained to fund the plan shall be held in trust for the purpose of providing benefits to the employees, former employees of the county, or their beneficiaries. The assets held in trust may not revert back to the county unless all benefits payable under the terms of the plan have been satisfied.

**SECTION 25.** Limitation on Benefits – Unless otherwise noted, this section shall be effective for plan years beginning after January 1, 1987.

(a) This subsection, except for subsection (a)(2), applies regardless of whether any member is or has ever been a member in another qualified plan maintained by the employer. If any member is or has ever been a member in another qualified plan or a welfare benefit fund (as defined in Section 419(e) of the Code) maintained by the employer, or an individual medical account (as defined in Section 415(1)(2) of the Code) that provides an annual addition, subsection (b) is also applicable to that member's benefits.

(1) The annual benefit otherwise payable to a member at any time shall not exceed the maximum permissible amount. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible amount, then the rate of accrual will be reduced so that the annual benefit shall equal the maximum permissible amount.

(2) The limitation in subdivision (a)(1) is deemed satisfied if the annual benefit payable to a member is not more than one thousand dollars (\$1,000) multiplied by the member's number of years of service or parts thereof (not to exceed ten (10)) with the employer, and the employer has not at any time maintained a qualified defined contribution plan, a welfare benefit plan as defined in Section 419(e) of the Code, or an individual medical account as defined in Section 415(1)(2) of the Code, in which such member participated.

(b) This subsection applies if any member is covered, or has ever been covered, by another plan maintained by the employer, including a qualified plan, a welfare benefit fund as defined in Section 419(e) of the Code, or an individual medical account as defined in Section 415(1)(2) of the Code, or a simplified employee pension which provides an annual addition maintained by the employer.

(1) If a member is, or has ever been, covered under more than one (1) qualified defined benefit plan maintained by the employer, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible amount.

(2) The provisions of this subdivision (b)(2) shall not apply to limitation years beginning after December 31, 1999. If the employer maintains, or at any time maintained, one (1) or more qualified defined contribution plans covering any member in this plan, a welfare benefit fund as defined in Section 419(e) of the Code, an individual medical account as defined in Section 415(1)(2) of the Code, or a simplified employee pension, the following rules apply. The sum of the member's defined contribution fraction and defined benefit fraction shall not exceed one (1) in any limitation year, and the annual benefit otherwise payable to the member under this plan or the annual additions otherwise credited to the member under the defined contribution plan shall be limited to the level necessary to prevent the limitations of this section from being exceeded with respect to such member (but not to a figure less than the accrued benefit of such member at the

beginning of such limitation year). If the projected annual benefit is reduced to the level of the accrued benefit at the beginning of the limitation year, and the sum of both fractions remains in excess of one (1), the remaining reduction to a sum of one (1) shall be accomplished by reducing the numerator of the defined contribution fraction.

(3) The annual addition to any member's accounts for any plan year shall not exceed the lesser of thirty thousand dollars (\$30,000) (or such amount for any plan year as results from the annual adjustment factor determined by the Commissioner of the Internal Revenue Service and effective on January 1 of the plan year), or twenty-five percent (25%) of such member's compensation for the plan year.

If as a result of (i) the allocation of forfeitures, (ii) a reasonable error in estimating the compensation of a member, (iii) a reasonable error in determining the amount of elective deferral contributions (within the meaning of Code Section 402(g)(3)) that may be made with respect to any individual under the limits of Code Section 415, or (iv) other facts and circumstances allowed by regulation, the annual additions limitation is exceeded in any plan year, the excess annual addition shall be charged against the member's accounts in the following order of priority by the amount required to ensure compliance with this section:

(A) The annual additions to any other qualified defined contribution plan;

(B) Employee contributions to this plan – The portion of such excess that consists of employee contributions shall be returned to the member. The employee contributions returned or distributed shall include income on such amounts determined in the same manner that income is determined in this plan. (However, if such method of determining income is not permitted by regulations, then income shall be determined in a manner consistent with any applicable regulations.)

(c) In the case of an individual who was a member in one (1) or more qualified defined benefit plans of the employer as of the first day of the first limitation year beginning after December 31, 1986, the application of the limitations of this section shall not cause the maximum permissible amount for such individual under all such qualified defined benefit plans to be less than the individual's Tax Reform Act of 1986 (TRA '86) accrued benefit. The preceding sentence applies only if all such qualified defined benefit plans met the requirements of Section 415 of the Code for all limitation years beginning before January 1, 1987.

(d) Definitions. For purposes of this section, the following terms shall be defined as follows:

(1) "Annual Additions" means the sum of the following amounts credited to a member's accounts under a qualified defined contribution plan for the limitation year:

(A) Employer contributions;

(B) Employee contributions; and

(C) Forfeitures

Amounts allocated after March 31, 1984, to an individual medical account, as defined in Section 415(1)(2) of the Code, which is part of a pension or annuity plan maintained by the employer, shall be treated as an annual addition to a qualified defined contribution plan.

(2) "Annual Benefit" means a retirement benefit under the plan which is payable annually in the form of a straight life annuity. Except as provided below, benefit payable in a form other than a straight life annuity shall be adjusted to an actuarially equivalent straight life annuity before applying the limitations of this section. The annual benefit shall not include any benefits attributable to employee contributions (other than contributions picked up by the employer in accordance with Code Section 414(h)) or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the employer. No actuarial adjustment to the benefit is required for (i) the value of a qualified joint and survivor annuity (as defined in Code Section 417(b)), (ii) the value of benefits that are not directly related to retirement benefits (such as the qualified disability benefit, preretirement death benefits, and post-retirement medical benefits), and (iii) the value of post-retirement cost-of-living increases, if any, made in accordance with Section 415(d) of the Code and Section 1.4153(c)(2)(iii) of the Treasury Regulations.

(3) "Compensation" means, solely for purposes of this section, wages, salaries, and fees or professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, reimbursements, and

expense allowances) and excluding the following:

(A) Employer contributions to a plan of deferred compensation (including a Code Section 457 plan) which are not includible in the employee's gross income for the taxable year in which contributed, or any distributions from a plan of deferred compensation; and

(B) Other amounts which received special tax benefits, including pickup contributions, and contributions made by the employer (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Code Section 403(b) (whether or not the amounts are actually excludable from the gross income of the eligible employee).

Notwithstanding the above, effective January 1, 1998, compensation shall include salary deferrals under Sections 401(k), 403(b), 457, and 125 of the Code; however, contributions picked up by the employer shall continue to be excluded.

For limitation years beginning on and after January 1, 2001, for purposes of applying the limitations of this section, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the eligible employee by reason of Code Section 132(f)(4).

(4) "Defined Benefit Dollar Limitation" means ninety thousand dollars (\$90,000). Effective on January 1, 1988, and each January thereafter, the ninety thousand dollar (\$90,000) limitation above will be automatically adjusted by multiplying such limit by the cost of living adjustment factor prescribed by the Secretary of the Treasury under Section 415(d) of the Code in such manner as the secretary shall prescribe. The new limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

(5) "Defined Benefit Fraction" means a fraction, the numerator of which is the sum of the member's projected annual benefits under all qualified defined benefit plans (whether or not terminated) maintained by the employer, and the denominator of which is the lesser of (i) one hundred twenty-five percent (125%) of the dollar limitation determined for the limitation year under Sections 415(b)(1)(A) and (d) of the Code and (ii) one hundred forty percent (140%) of the highest average compensation, including any adjustments under Section 415(b)(5) of the Code, both in accordance with Section 25(d)(10) below.

Notwithstanding the above, if the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one (1) or more qualified defined benefit plans maintained by the employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than one hundred twenty-five percent (125%) of the sum of the annual benefits under such plans which the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plans after May 5, 1986. The preceding sentence applies only if the qualified defined benefit plans individually and in the aggregate satisfied the requirements of Code Section 415 for all limitation years beginning before January 1, 1987.

(6) "Defined Contribution Fraction" means a fraction, the numerator of which is the sum of the annual additions to the member's account under all qualified defined contribution plans (whether or not terminated) maintained by the employer for the current and all prior limitation years, (including the annual additions attributable to the member's nondeductible employee contributions to this and all other qualified defined benefit plans (whether or not terminated) maintained by the employer and the annual additions attributable to all welfare benefit funds, as defined in Section 419(e) of the Code or individual medical account as defined in Section 415(1)(2) of the Code, maintained by the employer), and the denominator of which is the sum of the maximum aggregate amounts for the current and all prior limitation years of service with the employer (regardless of whether a qualified defined contribution plan was maintained by the employer). For purposes hereof, the maximum aggregate amount in any limitation year is the lesser of (i) one hundred twenty-five percent (125%) of the dollar limitation determined under Section 415(c)(1)(A) of the Code after adjustment under Section 415(d) of the Code and (ii) thirty-five percent (35%) of a member's compensation for such year.

If the eligible employee was a member as of the first day of the first limitation year beginning after December 31, 1986, in one (1) or more defined contribution plans maintained by the employer which were in existence on May 6, 1986, then the numerator of this fraction shall be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed one (1) under the terms of this plan. Under the adjustment, an amount equal to the product of (i) the excess of the sum of the fractions over one (1) times (ii) the denominator of this fraction, shall be permanently subtracted from the numerator of this fraction. The adjustment shall be calculated using the

fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plans made after May 5, 1986, but using the Code Section 415 limitation applicable to the first limitation year beginning on or after January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions.

(7) "Employer" means, for purposes of this section, the government of Hamilton County, Tennessee, and any agency that adopts this plan.

(8) "Highest Average Compensation" means the average compensation for the three (3) consecutive years of service with the employer that produces the highest average.

(9) "Limitation Year" means the plan year.

(10) "Maximum Permissible Amount" means the defined benefit dollar limitation as modified below.

(A) If the member has less than ten (10) years of participation with the employer, the maximum permissible amount is reduced by one-tenth (1/10) for each year of participation (or part thereof) less than ten (10). To the extent provided in regulations or in other guidance issued by the Internal Revenue Service, the preceding sentence shall be applied separately with respect to each change in the benefit structure of the plan. The adjustments of this paragraph shall be applied in the denominator of the defined benefit fraction based upon years of service. In no event shall the reduction in the maximum permissible amount reduce the limitation to an amount less than one-tenth (1/10) of that limitation (determined without regard to this subdivision (10)(A)).

(B) Adjustment or early payment. If the annual benefit of the member commences before age sixty-two (62), the defined benefit dollar limitation shall be determined as follows:

(i) If the annual benefit of a member commences prior to age sixty-two (62), the defined benefit dollar limitation shall be the actuarial equivalent of an annual benefit beginning at age sixty-two (62), as determined above, reduced for each month by which benefits commence before the month in which the member attains age sixty-two (62). However, in no event shall the adjustment in this subdivision (10) (B) (i) result in the defined benefit dollar limitation being reduced to an amount less than the minimum specified below. If the annual benefit of a member commences on or after age fifty-five (55), the minimum amount shall be seventy-five thousand dollars (\$75,000) (with no adjustments for increases in the cost of living). If the annual benefit to a member commences before age fifty-five (55), the minimum amounts shall be the actuarial equivalent of an annual benefit of seventy-five thousand dollars (\$75,000) commencing at age fifty-five (55) (with no adjustments for increases in the cost of living).

(ii) The adjustment in subdivisions (10) (B) (i) above shall not apply in the case of a qualified member. A member is considered qualified for purposes of this paragraph if the service used in computing his benefit includes at least fifteen (15) years of full-time employment: in any police department or fire department of the employer, to provide police protection, firefighting services or emergency medical services within the jurisdiction of the employer; or as a participant of the Armed Forces of the United States; or in any combination thereof adding up to at least fifteen (15) years of full-time employment.

(iii) The adjustment in subdivision (10) (B) (i) above shall not apply to any benefit payable as a result of the member becoming disabled or to a benefit payable to the beneficiaries, survivors, or estate of member as a result of the death of the member.

(C) Adjustment for delayed payment. If the annual benefit of a member commences after age sixty-five (65), the defined benefit dollar limitation shall be adjusted so that it is the actuarial equivalent of an annual benefit of such dollar limitation beginning at age sixty-five (65).

(11) "Projected Annual Benefit" means the annual benefit to which the member would be entitled under the terms of the plan assuming:

(A) The member continues employment until normal retirement age under the plan (or current age, if later), and

(B) The member's compensation for the current limitation year and all other relevant factors used to determine benefits under the plan shall remain constant for all future limitation

years.

(12) "Year of Participation" means each accrual computation period (computed to fractional parts of a year) for which the following conditions are met: (i) the member is credited with at least the period of service for benefit accrual purposes, required under the terms of the plan in order to accrue credited employee service or credited police and fire service, and (ii) the member is included as a member under the eligibility provisions of the plan for at least one (1) day of the period of credited employee service or credited police and fire service. If these two (2) conditions are met, the portion of a year of participation credited to the member shall equal the amount of credited employee service or credited police and fire service credited to the member for such accrual computation period. A member who is permanently and totally disable within the meaning of Section 415(c)(3)(C)(i) of the Code for an accrual computation period shall receive a year of participation with respect to that period. In addition, for a member to receive a year of participation (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event will more than one (1) year of participation be credited for any twelve-month period.

(e) Actuarial equivalence. All actuarial equivalence determinations in this section shall be made in accordance with this subsection. Actuarial equivalence determinations include: adjustment for early payment; adjustment for delayed payment; adjustment for payment in a form other than a life annuity; computation of the benefit attributable to employee contributions; and all other determinations of a similar nature, as required by context. The actuarial equivalent straight life annuity is equal to the greater of the annuity benefit computed using the interest rate and mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form, and the annuity benefit computed using a five percent (5%) interest rate assumption and the GATT mortality table. In determining the actuarially equivalent straight life annuity for a benefit form other than a non-decreasing annuity payable for a period of not less than the life of the participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or decreases during the life of the participant merely because of (a) the death of the survivor annuitant (but only if the reduction is not below fifty percent (50%) of the annual benefit payable fore the death of the survivor annuitant), or (b) the cessation or reduction of social security supplements of qualified disability payments (as defined in Code Section 401(a)(11)), the applicable interest rate, as described in Code Section 417(e)(3), will be substituted for "a five percent (5%) interest rate assumption: in the preceding sentence. To determine actuarial equivalence for a delayed payment, the interest rate assumption used is the lesser of the rate specified in Section 33 of the plan and five percent (5%). The GATT mortality table is the table specified in Revenue Ruling 95-6, implementing Section 417(e)(3) of the Code as amended by the Uruguay Round Agreements Acts of 1994. However, the GATT mortality table shall automatically be the table specified in any future Revenue Rulings or Federal Regulations that amend or supersede Revenue Ruling 95-6 by specifying a new mortality table for purposes of Section 41(e)(3) of the Code, as amended. Solely for purposes of determining the benefit attributable to employee contributions, to compute the limitations in this section, interest shall be credited to such contributions at the following rates. For period before July 1, 1988, interest shall be credited to employee contributions at the rate of five percent (5%) per year. For plan years commencing on or after July 1, 1988, interest shall be credited on accumulated employee contributions at the rate specified in Section 411(c)(2)(C)(iii) of the Code, up to the determination date. The interest rate used for periods of time commencing on the determination date shall be the rate specified in Section 417(e)(3) of the Code as of the last day of the prior plan year (as if such Code Section applied to this plan).

(f) Provided, the application of this section shall be subject to such rules as may be prescribed by the Secretary of the Treasury, in order to maintain the qualified status of the plan.

**SECTION 26.** Limitation on Earnings.

(a) For purposes of computing any benefit under the plan or any contribution made to a plan, there shall be a limit on the amount of compensation that may be considered in any plan year for any member. The limit shall be the amount specified in this section as described below.

(b) For plan years beginning after December 31, 1995, the annual compensation limit of Code Section 401(a)(17) is incorporated by reference in this plan with respect to non-eligible members; provided, however, in the case of an eligible member, the annual compensation limit of Code Section 401(a)(17) shall not apply to the extent that the application of the limitation would reduce the amount of compensation that was allowed to be taken into account under the plan as in effect on July 1, 1993. For these purposes, an eligible member is an individual who first became a member in the plan prior to the first day of the first plan year beginning after the earlier of (i) the last day of the plan year by which a plan amendment to reflect the amendments made by Section 13212 of the Omnibus Budget Reconciliation Act of 1993 is both adopted and effective, or (ii) December 31, 1995.

**SECTION 27.** Minimum Distributions - Effective July 1, 1989, notwithstanding any provisions of the plan to the contrary, the following provisions shall apply.

(a) A member shall begin to receive that member's plan benefits no later than April 1 of the calendar year following the later of (i) the year in which he attains age seventy and one-half (70½) or (ii) the year in which he retires. However, in no case shall the member's benefit commence later than the date required by Section 401(a)(9) of the Code, and in no case shall the distribution violate the minimum distribution incidental death benefit requirements of the regulations under Section 401(a)(9) of the Code.

(b) Upon the death of a member after distribution of his benefit has commenced, the remaining portion of his interest in the plan will be distributed at least as rapidly as under the method of distribution in effect prior to the member's death.

Upon the death of a member before distribution of his benefit has commenced, the member's entire interest will be distributed no later than five (5) years after the member's death, except for situations described in (1) or (2) below.

(1) If any portion of the member's interest is payable to a designated beneficiary, the distributions may be made in substantially equal installments over a period of time that is equal to or less than the life or life expectancy of the designated beneficiary commencing no later than one (1) year after the member's death.

(2) If the designated beneficiary is the member's surviving spouse, the date distributions are required to commence in accordance with subdivision (b)(1) above shall not be earlier than the date on which the member would have attained age seventy and one-half (70½), and if the spouse dies before payments begin, subsequent distributions shall be made as if the spouse had been the member.

**SECTION 28.** Right to Direct Rollover.

(a) This section applies to distributions made on or after January 1, 1993. 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 benefits board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions. For purposes of this section, the following terms shall be defined as follows:

(1) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(2) "Distributee" means a member or former member, or the spouse of the member or former member, provided such person is entitled to receive a benefit under the plan.

(3) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the 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.

(4) "Eligible rollover distribution" means 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: (A) any distribution that is one (1) of a series of substantially 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 (10) years or more; (B) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and (C) the portion of any distribution that is not includible in gross income.

**SECTION 29.** Qualified Military Service - The following sentence shall apply to those members who are re-employed on or after December 12, 1994. Notwithstanding any provision of this plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

**SECTION 30.** Family Medical Leave Act - Notwithstanding any other provisions of the plan, in the case of an eligible employee who takes family or medical leave as an eligible employee of a covered employer under the provisions of the Family and Medical Leave Act of 1993 (FMLA), any period of FMLA leave shall be treated as continued service for purposes of eligibility to participate and vesting service to the extent required by applicable law.

**SECTION 31.** Vesting Upon Plan Termination - In the event that this plan is terminated for any reason, the accrued benefits of all members shall fully vest and become nonforfeitable.

**SECTION 32.** Plan Forfeitures - Plan forfeitures occurring as a result of a member terminating employment with the county prior to completing five (5) years of service shall not be used to increase benefits of remaining plan members.

**SECTION 33.** Actuarial Equivalent - Effective July 1, 2002, actuarial equivalent shall mean a benefit of equivalent value on the basis of a seven and one-half percent (7/5%) interest rate, the RP-2000 Mortality Table for Employees (Male) for Members, and the RP-2000 Mortality Table for Employees (Female) for Beneficiaries.

**SECTION 34.** Definitions Applicable to this Act:

(1) "Code" means the U.S. Internal Revenue Code as amended. All references to code sections shall include any applicable rulings and regulations, and as of any future date shall automatically incorporate any amendments to such Sections, and shall be deemed to refer to any comparable provisions of any future laws.

(2) "Plan" means the Hamilton County Employees' Retirement Plan.

(3) "Plan Year" means each twelve-month period commencing July 1 and ending on the next June 30.

(4) "Spouse" means the person who is legally married to a member.

**SECTION 35.** Alienation of Assignment of Benefits: Qualified Domestic Relations Orders (QDROs).

(a) This Act, as created by Chapter 557 of the Private Acts of 1939, and any other acts amendatory thereto, is deemed to be the Hamilton County Employees' Retirement Act, hereinafter referred to under this Section 35 as "the Plan."

(b) Except as otherwise provided under Tennessee Code Annotated, Section 26-2-105, no benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to so anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge shall be void. No such benefit shall in any manner be liable for or subject to the debts, contracts, liabilities, engagements, or torts of the person entitled to such benefit, except for an order of assignment of support issued under Tennessee Code Annotated, section 36-5-501 or a QDRO under Tennessee Code Annotated, Section 26-2-105, subject to this paragraph (b).

(c) If a QDRO pertains to a plan member who is already receiving benefits under the Plan, the alternate payee, as identified in the QDRO, shall share in the payments being made to the plan member and shall not be allowed to change the payment method or the timing of the payments. If a QDRO pertains to a plan member who has not commenced receiving benefit payments under the Plan, the alternate payee shall not be permitted to receive benefit payments from the plan until the member commences receiving payments, and then the alternate payee shall share in the payments to be made to the member in the manner and timing of payments as elected by the member. The Plan shall not accept a QDRO that provides the alternate payee with a separate interest in a member's benefit.

(d) The responsibility for the review and processing of a QDRO is hereby delegated to the Pension commission, which may, in its discretion, further delegate some or all of such responsibility to a county employee or third party; provided, that the ultimate authority for the determination of the qualified status of a domestic relations order remains with the Pension Commission. The Pension Commission shall establish reasonable procedures to determine the qualified status of a domestic relations order.

As amended by: Private Acts of 208, Chapter 50.

**SECTION 36.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Hamilton County legislative body. Its approval or rejection shall be proclaimed by the presiding officer of such county legislative body and certified by him to the Secretary of State.

As amended by: Private Acts of 208, Chapter 50.

**SECTION 37.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 35.

As amended by: Private Acts of 2004, Chapter 76  
Private Acts of 2018, Chapter 50.

Passed: March 9, 1939.

## Private Acts of 1943 Chapter 121

**COMPILERS' NOTE:** This act contains broad amendments to Private Acts of 1939, Chapter 557, and



should be read in conjunction with that act.

**SECTION 1.** That Chapter No. 557 of the Private Acts of Tennessee for the year 1939, entitled as set out in the caption hereof, and any and all amendatory acts thereof, be, and the same are, hereby amended so as to repeal and strike from said legislation all provisions providing for a pension, or other benefits, for officers of Hamilton County elected by the people or appointed to fill any vacancy in any county office where the people of the county had elected the one who had vacated the same. It is further provided that all such elected county officers who had contributed to the pension fund provided for in said legislation shall, upon application to the Pension Commission hereinafter provided for, be refunded, and fully reimbursed for all the payments each has paid into said pension fund; and *provided further*, if additional claim for interest on such payments is made, the said Pension Commission is hereby given the discretion to pay or refuse to pay the same, after taking into consideration the services rendered by the applicant to the County.

**SECTION. 2.** [The amendments from this section, which changed the age limit figures from 65 to 60, have been added to the acts outlined in Section 1 of this act and is therefore not printed here in full].

**SECTION. 3.** [The amendments from this section, which affected Section 9 of Chapter 557 of the Private Acts of 1939, has been added to that act and is therefore not printed here in full].

**SECTION. 4.** That there is hereby created a Pension Commission to administer and enforce this legislation, to consist of six (6) members, one of whom shall be the County Judge, who shall be chairman of the Pension Commission, and one of whom shall be the Director of Accounts and Budgets, who shall serve as Secretary of the Pension Commission, and one of whom shall be the County Auditor, and the other three (3) members to be elected by ballot of the county employee participating in said Pension Fund, each employee being entitled to vote for three (3) members of the Pension Fund, and those members so elected are to county employees participating in said Pension Fund, to serve terms as hereinafter provided; and the County Judge in order to ascertain the choice of members by the employees, shall give due notice to the employees, by letter; or notices duly posted on county bulletin boards thirty days prior to elections, advising time and place of such election.

As amended by: Private Acts of 1974, Chapter 356

**SECTION. 5.** That the first election held to elect (3) members of the Pension Commission shall be held between the hours of nine o'clock A.M. and seven o'clock P.M. at a date within sixty (60) days after acceptance of this bill by the Hamilton County Council, and at locations to be announced in the notice of election, and said election to be held under the supervision of a committee of employees appointed by the existing Pension Commission.

For such election ballot boxes shall be provided, and at the close of the balloting the committee selected to hold the election shall openly, and in the presence of all employees who desire to attend, count the ballots and announce the results, and the three (3) employees receiving the highest number of votes shall be elected members of the Pension Commission and shall before entering upon their duties, make and file an oath that they will faithfully perform their duties as Commissioners and aid in fairly administering the duties of the Pension Commission.

In case of a tie, the County Judge shall determine which of those tying shall be declared elected.

As amended by: Private Acts of 1974, Chapter 356

**SECTION. 6.** That the employees elected as herein provided shall serve for a term of four (4) years.

Future elections will be held at four year intervals, the date and time of election to be determined by the then existing Pension Commission. If a vacancy shall occur in said Commission for any reason, such vacancy shall be filled by the remaining members of said Commission for the unexpired term, but such member so appointed shall be an employee of the County, and participating in said Pension Fund.

As amended by: Private Acts of 1974, Chapter 356

**SECTION. 7.** That immediately after the election is held and the three members have been elected, the Commission shall meet and organize, and shall have authority to adopt its own rules and regulations, and require the Secretary to keep a minute record of all its proceeding, and any necessary expenses for the operation of the said Commission shall be paid out of the Pension Fund. Four members of said Pension Commission shall constitute a quorum to transact business, but all action shall require at least [sic] three affirmative votes to become effective. Attendance by more than four members shall require a majority vote for the transaction of business.

As amended by: Private Acts of 1974, Chapter 356

**SECTION. 8.** That any County employee who participates in said Pension Fund, desiring to be retired under the provisions of this Act shall file a verified petition with the Pension Commission, setting forth in detail his employment record, with a prayer to be retired, accompanied by certification of the County Auditor or produce other satisfactory evidence as to the correctness of his or her employment record.

The Pension Commission shall then determine whether such person is entitled to draw compensation and the amount thereof, which petition, auditor's certificate or other proof heard by the Commission shall be noted upon the minutes of the County Council of Hamilton County, and the decision of said Commission shall be final and conclusive, except anyone who may feel aggrieved by the action of the Commission may have such action reviewed in the manner provided by Sections 9008 to 9018 of the Code of Tennessee, 1932.

**SECTION. 9.** That upon the death of an employee participating in said Pension Fund, who has been killed in line of duty, there shall be paid to his beneficiary or beneficiaries from the Pension Fund the sum of Two Hundred Fifty (\$250.00) Dollars for burial expenses.

**SECTION. 10.** That all laws and parts of laws in conflict with this legislation shall be and are hereby repealed, and that this Act take effect from and after its passage, the public welfare requiring it.

Passed: January 27, 1943.

## Private Acts of 1961 Chapter 362

**SECTION 1.** That Chapter 557 of the Private Acts of 1939, the caption of which is quoted in the caption hereof, and all amendatory Acts thereto, be and the same is hereby amended so as to provide that all employees and officials of Hamilton County who are eligible to receive a pension under this Act and the amendments thereof, shall receive a pension of not less than One Hundred (\$100.00) Dollars per month. This applies to all employees or officials who are now on pension and to those who become eligible to retire after the passage of this Act.

**SECTION 2.** That a tax may be levied by the County Council sufficient to provide for this increase.

**SECTION 3.** That before this Act becomes effective the same must be approved by a two-thirds majority of the governing body of Hamilton County, the same being the County Council, and that said vote shall be taken within sixty (60) days from the enactment of this Act.

**SECTION 4.** That all laws, or parts of law, in conflict with this Act are hereby repealed, and this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 16, 1961.

## Private Acts of 2014 Chapter 68

AN ACT to amend Chapter 557 of the Private Acts of 1939; as amended by Chapter 76 of the Private Acts of 2004; and any other acts amendatory thereto, relative to the Hamilton County Employees' Retirement Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, such acts comprising the Hamilton County Employees' Retirement Act, herein referred to as "the Plan", and any other acts amendatory thereto, are hereby amended as provided in the subsequent sections of this act, generally effective as of July 1, 2010, with specific effective dates for certain sections as may be indicated in such sections.

SECTION 2. This act amends the Plan to comply with changes in the Internal Revenue Code of 1986, herein referred to as the "Code", caused by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA); the Job Creation and Worker Assistance Act of 2002 (JCWAA); the Pension Funding Equity Act of 2004 (PFEA); the American Jobs Creation Act of 2004 (AJCA); the Pension Protection Act of 2006 (PPA); the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART); the Worker, Retiree and Employer Recovery Act (WRERA); and various regulations and related guidance issued by the Internal Revenue Service.

SECTION 3. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended in Section 16 by adding the following language at the end of the section:

The Plan does not permit involuntary distributions of benefits that are immediately distributable, as defined by the Code.

SECTION 4. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 25 in its entirety and substituting instead the following:

Section 25. Limitations on Benefits.

(a) The limitations of this Section 25 shall apply in Limitation Years beginning on or after July 1, 2002, except as otherwise provided herein.

(b) The Annual Benefit otherwise payable to a Participant at any time shall not exceed the Maximum Permissible Benefit. If the benefit the Participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the benefit shall be limited, or the rate of accrual reduced, to a benefit that does not exceed the Maximum Permissible Benefit.

(c) If the Participant is, or has ever been, a participant in another qualified defined benefit plan maintained by the County, the sum of the Participant's Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. Where the Participant's county-provided benefits under all such defined benefit plans, determined as of the same age, would exceed the Maximum Permissible Benefit applicable at that age, the County will reduce the rate of accrual in this Plan to the extent necessary so that the total Annual Benefit payable at any time under such plans will not exceed the Maximum Permissible Benefit.

(d) The application of the provisions of this Section 25 shall not cause the Maximum Permissible Benefit for any Participant to be less than the Participant's accrued benefit under all the defined benefit plans of the County as of the end of the last Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007, satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Code section 415 in effect as of the end of the last Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, as described in Regulation 1.415(a)-1(g)(4).

(e) Definitions (In Addition to Those Capitalized Terms Defined in Section 34). For purposes of this Section 25, the following terms shall be defined as follows:

(1) "Annual Benefit" means a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Section 25. For a Participant who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date, and shall satisfy the limitations of this Section 25 as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Regulation 1.401(a) 20, Q&A 10(d), and with regard to Regulation 1.415(b)-1(b)(ii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (i) survivor benefits payable to a surviving Spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Participant's benefit were paid in another form; (ii) benefits that are not directly related to retirement benefits, such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits; or (iii) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Code section 417(e)(3) and would otherwise satisfy the limitations of this Section 25, and the Plan provides that the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Section 25 applicable at the Annuity Starting Date, as increased in subsequent years pursuant to Code section 415( d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the Annual Benefit shall take into account social security supplements described in Code section 411 (a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Regulation 1.411(d)-4, Q&A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

Effective for distributions in Plan Years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with subsections (A) or (B) below.

(A) Benefit Forms Not Subject to Code section 417(e)(3). The straight life annuity

that is actuarially equivalent to the Participant's form of benefit shall be determined under this subsection (A) if the form of the Participant's benefit is either (1) a nondecreasing annuity, other than a straight life annuity, payable for a period of not less than the life of the Participant or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving Spouse, or (2) an annuity that decreases during the life of the Participant merely because of (a) the death of the survivor annuitant, but only if the reduction is not below fifty percent (50%) of the benefit payable before the death of the survivor annuitant, or (b) the cessation or reduction of Social Security supplements or qualified disability payments, as defined in Code section 401(a)(11).

(i) Limitation Years beginning before July 1, 2007. For Limitation Years beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table, or other tabular factor specified in Section 33 of the Plan for adjusting benefits in the same form; and (II) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan for that Annuity Starting Date.

(ii) Limitation Years beginning on or after July 1, 2007. For Limitation Years beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, the actuarially equivalent straight life annuity is equal to the greater of (I) the annual amount of the straight life annuity, if any, payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of benefit; and (II) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan for that Annuity Starting Date.

(B) Benefit Forms Subject to Code section 417(e)(3). As a governmental plan there are no benefits subject to Code section 417(e)(3).

(2) "Compensation" shall mean all of a Participant's wages within the meaning of Code section 3401 (a) and all other payments of compensation to an employee by the County for which the County is required to furnish the employee a written statement under Code sections 6041 (d), 6051 (a)(3), and 6052. Compensation shall be determined without regard to any rules under Code section 3401 (a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed, such as the exception for agricultural labor in Code section 3401 (a)(2). However, compensation shall exclude amounts paid or reimbursed by the County for moving expenses incurred by an employee, but only to the extent that at the time of the payment it is reasonable to believe that these amounts are deductible by the employee under Code section 217.

For Limitation Years beginning after December 31, 1991, for purposes of applying the limitations of this section, Compensation for a Limitation Year is the Compensation actually made available during such Limitation Year.

For Limitation Years beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, Compensation for a Limitation Year shall also include Compensation paid by the later of two and one-half (2Y2) months after an employee's severance from employment with the County, or the end of an elected or appointed term as commissioner, or the end of the calendar year that includes the date of the employee's severance from employment, or the end of an elected or appointed term as commissioner with the County, if:

(i) The payment is regular Compensation for services during the employee's regular working hours, or Compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment,

the payments would have been paid to the employee while the employee continued in employment (or service as commissioner) with the County; or,

(ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or

(iii) The payment is received by the employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

Any payments not described above shall not be considered Compensation if paid after severance from employment, or end of term as commissioner, even if they are paid by the later of two and one-half (2Y2) months after the date of severance from employment or the end of the calendar year that includes the date of severance from employment, except, (i) payments to an individual who does not currently perform services for the County by reason of qualified military service, within the meaning of Code section 414(u)(1), to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the County rather than entering qualified military service; or (ii) compensation paid to a Participant who is permanently and totally disabled, as defined in Code section 22(e)(3), provided, salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period, or the Participant was not a highly compensated employee, as defined in Code section 414(q), immediately before becoming disabled.

Back pay, within the meaning of Regulation 1.415(c)-2(g)(8) shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

For Limitation Years beginning after December 31, 1997, for purposes of applying the limitations of this Section 25, compensation paid or made available during such Limitation Year shall include any elective deferral, as defined in Code section 402(g)(3), and any amount which is contributed or deferred by the County at the election of the employee and which is not includible in the gross income of the employee by reason of Code section 125 or Code section 457.

For Limitation Years beginning on and after January 1, 2001, for purposes of applying the limitations of this Section 25, Compensation paid or made available during such Limitation Years shall include elective amounts that are not includible in the gross income of the Employee by reason of Code section 132(f)(4).

(3) "County" shall, for purposes of this Section 25, mean the County of Hamilton, Tennessee.

(4) "Defined Benefit Compensation Limitation" As a governmental plan, this Plan is not subject to the 100% compensation limit of Code section 415(b).

(5) "Defined Benefit Dollar Limitation" shall mean, as of the general effective date of this act, one hundred ninety-five thousand dollars (\$195,000), the limit for the 2010 fiscal year, as may be automatically adjusted, effective January 1 of each year, by the Secretary of the Treasury under Code section 415(d) in such manner as the Secretary shall prescribe, and payable in the form of a straight-life annuity. A limitation as adjusted under Code section 415(d) will apply to Limitation Years ending with or within the calendar year for which the adjustment applies, but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The automatic annual adjustment provided under Code section 415(d) shall apply to Participants who have had a separation from employment.

(6) "Highest Average Compensation" shall mean the average Compensation for the three (3) consecutive Years of Service with the County that produces the highest average. If the Participant has less than three (3) consecutive Years of Service, the highest average will be based on the Participant's longest consecutive period of Service, including fractions of years, but not less than one (1) year.

In the case of a Participant who is rehired by the County after a severance from employment, or a commissioner re-elected or appointed to a nonconsecutive term, the Participant's Highest Average Compensation shall be calculated by excluding all years for which the Participant performs no services for and receives no Compensation from the

County (the "break period") and by treating the years immediately preceding and following the break period as consecutive. A Participant's Compensation for a Year of Service shall not include Compensation in excess of the limitation under Code section 401 (a)(17) that is in effect for the calendar year in which such Year of Service begins.

(7) "Limitation Year" shall mean the Plan Year. All qualified plans maintained by the County shall use the same Limitation Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, then the new Limitation Year shall begin on a date within the Limitation Year in which the amendment is made.

(8) "Maximum Permissible Amount" shall mean the Defined Benefit Dollar Limitation adjusted where required and to the extent applicable pursuant to subsections (A) and (B) below.

(A) Adjustment for Less Than Ten (10) Years of Participation or Service. If the Participant has less than ten (10) Years of Participation in the Plan, the Defined Benefit Dollar Limitation shall be multiplied by a fraction (i) the numerator of which is the number of Years, or part thereof, but not less than one (1) year, of Participation in the Plan, and (ii) the denominator of which is ten (10). This subsection (A) shall not apply to a distribution made on account of the Participant becoming disabled by reason of personal injuries or sickness or as a result of the Participant's death.

(B) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age Sixty-Two (62) or after Age Sixty-Five (65). Effective for benefits commencing in Limitation Years ending after December 31, 2001, the Defined Benefit Dollar Limitation shall be adjusted if the Annuity Starting Date of the Participant's benefit is before age sixty-two (62) or after age sixty-five (65). If the Annuity Starting Date is before age sixty-two (62), the Defined Benefit Dollar Limitation shall be adjusted under subparagraph (B)(i) below, as modified by subparagraph (B)(iii). If the Annuity Starting Date is after age sixty-five (65), the Defined Benefit Dollar Limitation shall be adjusted under subparagraph (B)(ii) below, as modified by subparagraph (B)(iii).

(i) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age Sixty-Two (62).

I. Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is prior to age sixty-two (62) and occurs in a Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for years of participation less than ten (10), if required, with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate specified and the mortality table, or other tabular factor specified in Section 33 of the Plan; or (2) a five percent (5%) interest rate assumption and the applicable mortality table as defined in Section 33 of the Plan.

II. Limitation Years Beginning on or After July 1, 2007.

A. Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-Two (62) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is prior to age sixty-two (62) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual

amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for years of participation less than ten (10), if required, with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the Annuity Starting Date as defined in Section 33 of the Plan, and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.

B. Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age Sixty Two (62) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is prior to age sixty-two (62) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan has an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the lesser of the limitation determined under subsection (B)(i)(II)A above and the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) for years of participation less than ten (10), if required, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the immediately commencing straight life annuity under the Plan at age sixty-two (62), both determined without applying the limitations of this Section 25.

(ii) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement After Age Sixty-Five (65).

I. Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for years of participation less than ten (10), if required, with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and the mortality table, or other tabular factor specified in Section 33 of the Plan; or (2) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan.

II. Limitation Years Beginning Before July 1, 2007.

A. Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-Five (65) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit

commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for Years of Participation less than ten (10), if required, with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for that Annuity Starting Date as defined in Section 33 of the Plan, and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.

B. Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age SixtyFive (65) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan has an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the lesser of the limitation determined under subsection (B)(i)(II)A and the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for Years of Participation less than ten (10), if required, multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65), both determined without applying the limitations of this Section 25. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age sixty-five (65) and has the same accrued benefit as the Participant.

(iii) Notwithstanding the other requirements of this subsection (8)(B), no adjustment shall be made to the Defined Benefit Dollar Limitation to reflect the probability of a Participant's death between the Annuity Starting Date and age sixty-two (62), or between age sixty-five (65) and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the Participant prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity, as defined in Code section 417(c) upon the Participant's death.

(C) Minimum benefit permitted. Notwithstanding anything else in this definition to the contrary, the benefit otherwise accrued or payable to a Participant under this Plan shall be deemed not to exceed the Maximum



Permissible Benefit if:

(i) The retirement benefits payable for a Limitation Year under any form of benefit with respect to such Participant under this Plan and under all other defined benefit plans, without regard to whether a plan has been terminated, ever maintained by the County do not exceed ten thousand dollars (\$10,000) multiplied by a fraction (I) the numerator of which is the Participant's number of years, or part thereof, but not less than one (1) year of service, not to exceed ten (10) with the County, and (II) the denominator of which is ten (10); and

(ii) The County has not at any time maintained a defined contribution plan in which the Participant participated. For this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under § 401 (h), and accounts for postretirement medical benefits established under § 419A(d)(1) are not considered a separate defined contribution plan.

(9) "Year of Participation" shall mean each accrual computation period, computed to fractional parts of a year, for which the following conditions are met: (i) the Participant is credited with at least the number of hours of service for benefit accrual purposes, required under the terms of the Plan in order to accrue benefit service, and (ii) the Participant is included as a Participant under the eligibility provisions of the Plan for at least one (1) day of the period of benefit service. If these two (2) conditions are met, the portion of a Year of Participation credited to the Participant shall equal the amount of benefit service credited to the Participant for such accrual computation period. A Participant who is permanently and totally disabled within the meaning of Code section 415(c)(3)(C)(i) for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for a Participant to receive a Year of Participation, or part thereof, for an accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event will more than one (1) Year of Participation be credited for any twelve (12) month period.

(f) Notwithstanding any provision of this Section 25, the application of this section shall be subject to such rules as may be prescribed by the Secretary of the Treasury.

SECTION 5. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 26 in its entirety and substituting instead the following:

Section 26. Limitation on Earnings.

(a) For purposes of computing any benefit under the Plan or any contribution made to the Plan, there shall be a limit on the amount of compensation that may be considered in any Plan Year for any Participant. The limit shall be the amount specified in this section as described below.

(b) For Plan Years beginning after December 31, 2001, the annual compensation of each Participant taken into account in determining benefit accruals in any Plan Year shall not exceed two hundred thousand dollars (\$200,000), as may be adjusted as set forth below. Annual compensation means compensation during the Plan Year or such other consecutive twelve-month period over which compensation is otherwise determined under the Plan, known as the determination period. Should the Plan use annual compensation for periods prior to January 1, 2002, to determine benefit accruals for Plan Years beginning after December 31, 2001, the annual compensation limit used for such periods shall be two hundred thousand dollars (\$200,000). The two hundred thousand dollar (\$200,000) limit on annual compensation in this subsection (b) shall be adjusted for cost-of-living increases in accordance with Code section 401(a)(17)(B), the cost-of-living adjustment effective January 1, 2010, is two hundred forty-five thousand dollars (\$245,000). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

SECTION 6. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 27 in its entirety and substituting instead the following:

Section 27. Minimum Distribution.

(a) Final Regulations Incorporated By Reference. Notwithstanding any provision of the Plan to the contrary, with respect to distributions under the Plan made for calendar years beginning on or

after January 1, 2006, the Plan will apply the minimum distribution requirements of Code section 401(a)(9) in accordance with the Regulations under Code section 401 (a)(9) that were finalized on June 15, 2004, and amended September 8, 2009, which are hereby incorporated by reference.

Furthermore, the Plan shall comply with any and all provisions interpreting Code section 401(a)(9) that are prescribed by the Commissioner of the Internal Revenue Service.

(b) Subject to the joint and survivor annuity requirement of the Plan, the requirements of this Section 27 will take precedence over any inconsistent provisions of the Plan.

(c) All distributions required under this Section 27 will be determined and made in accordance with Code section 401(a)(9) and the Regulations thereunder, including the incidental death benefit requirement in Code section 401 (a)(9)(G).

(d) Notwithstanding any other provision of this Section 27, other than subsection (c), distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to section 242(b)(2) of TEFRA.

(e) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date. "Required beginning date" means the April 1 of the calendar year following the later of:

- (1) The calendar year in which the Participant attains age seventy and one-half (70 1/2), or
- (2) The calendar year in which the Participant retires.

(f) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (1) If the Participant's surviving Spouse is the Participant's sole designated beneficiary, then distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70 1/2), if later.
- (2) If the Participant's surviving Spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (3) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (4) If the Participant's surviving Spouse is the Participant's sole designated beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 27(f), other than subsection (1), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 27(f) and subsections (n),(o) and (p), distributions are considered to begin on the Participant's required beginning date, or, if Section 27(f)(4) applies, the date distributions are required to begin to the surviving Spouse under Section 27(f)(1). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date, or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section 27(f)(4), the date distributions are considered to begin is the date distributions actually commence.

(g) Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, distributions will be made in accordance with the subsequent provisions of this Section 27. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401 (a)(9) and Regulations thereunder. Any part of the Participant's interest which is in the form of an individual account described in Code section 414(k) will be distributed in a manner satisfying the requirements of Code section 401 (a)(9) and the Regulations thereunder that apply to individual accounts.

(h) General Annuity Requirements. A Participant who is required to begin payments as a result of attaining his or her required beginning date, whose interest has not been distributed in the form of an annuity purchased from an insurance company or in a single sum before such date, may

receive such payments in the form of annuity payments under the Plan. Payments under such annuity must satisfy the following requirements:

- (1) The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year;
- (2) The distribution period will be over a life, or lives, or over a period certain not longer than the period provided for under the terms of this Section 27;
- (3) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (4) Payments will either be nonincreasing, or increase only as follows:
  - (A) By an annual percentage increase that does not exceed the annual percentage increase in an eligible cost-of-living index for a twelve-month period ending in the year during which the increase occurs or the prior year;
  - (B) By a percentage increase that occurs at specified times, for example, at specified ages, and does not exceed the cumulative total of annual percentage increases in an eligible cost-of-living index since the Annuity Starting Date, or if later, the date of the most recent percentage increase; except that in cases providing such a cumulative increase, an actuarial increase may not be provided to reflect the fact that increases were not provided in the interim years;
  - (C) To the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section 27(k) dies or is no longer the Participant's beneficiary pursuant to a court order recognized by the Plan;
  - (D) To allow a beneficiary to convert the survivor portion of a joint and survivor annuity into a single sum distribution upon the Participant's death;
  - (E) To pay increased benefits that result from a plan amendment;
  - (F) By a constant percentage, applied not less frequently than annually, at a rate that is less than five percent (5%) per year;
  - (G) To provide a final payment upon the death of the Participant that does not exceed the excess of the actuarial present value of the Participant's accrued benefit, within the meaning of Code section 411 (a)(7), calculated as of the Annuity Starting Date using the applicable interest rate and the applicable mortality table under Code section 417(e), or, if greater, the total amount of employee contributions, over the total of payments before the death of the Participant; or
  - (H) As a result of dividend or other payments that result from actuarial gains, provided:
    - (i) Actuarial gain is measured not less frequently than annually;
    - (ii) The resulting dividend or other payments are either paid no later than the year following the year for which the actuarial experience is measured or paid in the same form as the payment of the annuity over the remaining period of the annuity, beginning no later than the year following the year for which the actuarial experience is measured;
    - (iii) The actuarial gain taken into account is limited to actuarial gain from investment experience;
    - (iv) The assumed interest rate used to calculate such actuarial gains is not less than three percent (3%); and
    - (v) The annuity payments are not also being increased by a constant percentage as described in this Section 27.

(i) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's required beginning date, or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 27(f)(1) or (2), is the payment that is required for one (1) payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, such as bi-monthly, monthly, semi-annually, or annually. All of the

Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.

(j) **Additional Accruals After First Distribution Calendar Year.** Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues. Notwithstanding the preceding, the Plan will not fail to satisfy the requirements of this Section 27 and Code section 401 (a)(9) merely because there is an administrative delay in the commencement of the distribution of the additional benefits accrued in a calendar year, provided that the actual payment of such amount commences as soon as practicable. However, payment must commence no later than the end of the first calendar year following the calendar year in which the additional benefit accrues, and the total amount paid during such first calendar year must be no less than the total amount that was required to be paid during that year under this Section 27.

(k) **Joint Life Annuities Where the Beneficiary Is the Participant's Spouse.** If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and the Participant's Spouse, the minimum distribution incidental benefit requirement will not be satisfied as of the date distributions commence unless, under the distribution option, the periodic annuity payment payable to the survivor does not at any time on and after the Participant's required beginning date exceed the annuity payable to the Participant. In the case of an annuity that provides for increasing payments, the requirement of this subsection (k) will not be violated merely because benefit payments to the beneficiary increase, provided the increase is determined in the same manner for the Participant and the beneficiary. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and the Participant's Spouse and a period certain annuity, the preceding requirements will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(l) **Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse.** If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary, the minimum distribution incidental benefit requirement will not be satisfied as of the date distributions commence unless under the distribution option, the annuity payments to be made on and after the Participant's required beginning date will satisfy the conditions of this subsection (l). The periodic annuity payment payable to the survivor must not, at any time on and after the Participant's required beginning date, exceed the applicable percentage of the annuity payment payable to the Participant using the table set forth in Q&A-2(c)(2) of Regulation 1.401 (a)(9)-6. The applicable percentage is based on the adjusted participant/beneficiary age difference. The adjusted participant/beneficiary age difference is determined by first calculating the excess of the age of the Participant over the age of the beneficiary based on their ages on their birthdays in a calendar year. If the Participant is younger than age seventy (70), the age difference determined in the previous sentence is reduced by the number of years that the Participant is younger than age seventy (70) on the Participant's birthday in the calendar year that contains the Annuity Starting Date. In the case of an annuity that provides for increasing payments, the requirement of this subsection (l) will not be violated merely because benefit payments to the beneficiary increase, provided the increase is determined in the same manner for the Participant and the beneficiary. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary and a period certain annuity, the preceding requirements will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(m) **Period Certain Annuities.** Unless the Participant's Spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Regulation 1.401 (a)(9)-9 for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age seventy (70), the applicable distribution period for the Participant is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in Regulation 1.401 (a)(9)-9 plus the excess of seventy (70) over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's Spouse is the Participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this subsection (m), or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Regulation 1.401 (a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

(n) **Participant Survived by Designated Beneficiary.** If the Participant dies before the date distribution of

his or her interest begins and there is a designated beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Section 27(f)(1) or (2), over the life of the designated beneficiary or over a period certain not exceeding:

(1) Unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(2) If the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the Annuity Starting Date.

(o) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(p) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving Spouse is the Participant's sole designated beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section 27(p) will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 27(f).

(q) Definitions.

(1) Actuarial Gain. The term "actuarial gain" as used in this Section 27 means the difference between an amount determined using the actuarial assumptions, that is, investment return, mortality, expense, and other similar assumptions, used to calculate the initial payments before adjustment for any increases and the amount determined under the actual experience with respect to those factors. Actuarial gain also includes differences between the amount determined using actuarial assumptions when an annuity was purchased or commenced and such amount determined using actuarial assumptions used in calculating payments at the time the actuarial gain is determined.

(2) Designated Beneficiary. The term "designated beneficiary" as used in this Section 27 means the individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Code section 401 (a)(9) and Regulation 1.401 (a)(9)-1, Q&A-4.

(3) Distribution calendar year. The term "distribution calendar year" as used in this Section 27 means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 27(f) hereof.

(4) Eligible Cost-of-Living Index. The term "eligible cost-of-living index" as used in this Section 27 means an index described below:

(a) Consumer price index that is based on prices of all items, or all items excluding food and energy, and issued by the Bureau of Labor Statistics, including an index for a specific population, such as urban consumers or urban wage earners and clerical workers, and an index for a geographic area or areas, such as a given metropolitan area or state; or

(b) A percentage adjustment based on a cost-of-living index described in subparagraph (a) above, or a fixed percentage, if less; provided however, in any year when the cost-of-living index is lower than the fixed percentage, the fixed percentage may be treated as an increase in an eligible cost-of-living index, provided it does not exceed the sum of:

(i) The cost-of-living index for that year;

(ii) The accumulated excess of the annual cost-of-living index from each prior year over the fixed annual percentage used in that year, reduced by any amount previously utilized under this subparagraph (b); and

(iii) If provided by this Plan, as a governmental plan, a percentage adjustment based on the increase in compensation for the position held by the Participant at the time of retirement.

(5) Life expectancy. The term "life expectancy" as used in this Section 27, means the life expectancy as computed by use of the Single Life Table in Regulation 1.401 (a)(9)-9.

SECTION 8. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 28 in its entirety and substituting instead the following:

Section 28. Right to Direct Rollover. This section applies to distributions made on or after January 1, 2002. 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 Pension Commission, 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) 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 distribution that is one (1) of a series of substantially 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 (10) years or more; any distribution to the extent such distribution is required under Code section 401 (a)(9); and the portion of any distribution that is not includible in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(b) Eligible retirement plan: An "eligible retirement plan" is any of the following arrangements that accept the distributee's eligible rollover distribution:

- (1) An individual retirement account described in Code section 408(a);
- (2) An individual retirement annuity described in Code section 408(b);
- (3) An annuity plan described in Code section 403(a);
- (4) A qualified trust described in Code section 401 (a);
- (5) An annuity contract described in Code section 403(b);
- (6) An eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan; or
- (7) For distributions made after December 31, 2007, a Roth IRA described in Code section 408A(b).

The definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a domestic relations order accepted by the Pension Commission.

(c) Distributee: A "distributee" includes an employee or former employee eligible for benefits under the Plan. 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 domestic relations order accepted by the Pension Commission, are distributees with regard to the interest of the Spouse or former Spouse. Effective for distributions made after December 31, 2010, a "distributee" also includes a Participant's nonspouse beneficiary. However, in the case of a nonspouse beneficiary, the rollover must be a direct rollover and only can be made to an individual retirement account or annuity described in Code section 408(a) or 408(b) ("IRA") that is established on behalf of the beneficiary and will be treated as an inherited IRA pursuant to Code section 402(c)(ii). Also, in the case of a nonspouse beneficiary, the determination of any required minimum distribution under Code section 401 (a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18. If such distribution is made prior to January 1, 2010, it is not subject to the direct rollover requirements of Code section 401 (a)(31), the notice requirements of Code section 402(f) or the mandatory withholding requirements of Code section 3405(c). If a nonspouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a sixty-day (nondirect) rollover.

If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary with the meaning of Code section 401 (a)(9)(E).

(d) Direct rollover: A direct rollover is a payment by the Plan to an eligible retirement plan specified by the distributee and as allowed by law.

SECTION 9. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended in Section 29 by adding the following language at the end of the section:

Death benefits. In the case of a death or disability occurring on or after January 1, 2007, if a Participant dies while performing qualified military service, as defined in Code section 414(u), the survivors of the Participant are entitled to any additional benefits provided under the Plan, other than benefit accruals relating to the period of qualified military service, as if the Participant had resumed and then terminated employment on account of death.

Differential wage payments. For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code section 3401 (h)(2), shall be treated as an employee of the County making the payment, (ii) the differential wage payment shall be treated as compensation, and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Code section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

SECTION 10. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 33 in its entirety and substituting instead the following:

Section 33. Actuarial Equivalent

(a) Effective July 1, 2002, "actuarial equivalent" shall mean a benefit of equivalent value on the basis of a seven and one-half percent (7.5%) interest rate, the RP-2000 Mortality Table for Employees (Male) for Members, and the RP-2000 Mortality Table for Employees (Female) for Beneficiaries. Notwithstanding the foregoing, effective for distributions with Annuity Starting Dates on or after December 31, 2002, the applicable mortality table and applicable interest rate used for purposes of adjusting any benefit or limitation under Code section 415(b)(2)(8), (C), or (D) as set forth in Section 25 of the Plan shall be the table(s) and interest rates set forth in subsections (b) and (c) below, if such actuarial equivalent amount produces a greater benefit than that determined by the factors set forth in this subsection (a).

(b) For purposes of this subsection (b), the "applicable mortality table" means, for distributions having an Annuity Starting Date of January 1, 2008, or later, the applicable annual mortality table prescribed by Code section 417(e)(3)(B), as initially described in Revenue Ruling 2007-67. For distributions having an Annuity Starting Date prior to January 1, 2008, and after January 1, 2002, the applicable mortality table is the table prescribed in Revenue Ruling 2001-62.

(c) For purposes of subsection (c), the "applicable interest rate" means, for distributions having an Annuity Starting Date prior to January 1, 2008, and after January 1, 2002, the annual rate of interest on 30-year Treasury securities of the United States for the second calendar month preceding the first day of the Plan Year during which the Annuity Starting Date occurs. For distributions having an Annuity Starting Date of January 1, 2008, or later, the "applicable interest rate" means the adjusted first, second, and third segment rates applied under rules similar to the rules of Code section 430(h)(2)(C) for the calendar month (lookback month) before the first day of the Plan Year in which the Annuity Starting Date occurs (stability period). For this purpose, the first, second, and third segment rates are the first, second, and third segment rates which would be determined under Code section 430(h)(2)(C) if:

(1) Code section 430(h)(2)(D) were applied by substituting the average yields for the month described in the preceding paragraph for the average yields for the 24-month period described in such section, and

(2) Code section 430(h)(2)(G)(i)(II) were applied by substituting "Section 417(e)(3)(A)(ii)(II)" for "Section 412(b)(5)(B)(ii)(II)," and

(3) The applicable percentage under Code section 430(h)(2)(G) is treated as being twenty percent (20%) in 2008, forty percent (40%) in 2009, sixty percent (60%) in 2010, and eighty percent (80%) in 2011.

Notwithstanding the foregoing, except as provided in the Regulations, if a Plan amendment, including amendments made by this act, changes the time for determining the "applicable interest rate", including an indirect change as a result of a change in the Plan Year, any distribution for which the Annuity Starting Date occurs in the 1-year period commencing at the time the Plan amendment is effective, if the amendment is effective on or after the adoption date, must use the interest rate as provided under the terms of the Plan after the effective date of the amendment,

determined at either the date for determining the interest rate before the amendment or the date for determining the interest rate after the amendment, whichever results in the larger distribution. If the Plan amendment is adopted retroactively, that is, the amendment is effective prior to the adoption date, the Plan must use the interest rate determination date resulting in the larger distribution for the period beginning with the effective date and ending one (1) year after the adoption date.

SECTION 11. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 34 in its entirety and substituting instead the following:

Section 34. Definitions Applicable to the Plan:

- (1) "Annuity Starting Date" shall mean the first day of the first period for which an amount is paid as an annuity or any other form;
- (2) "Code" means the United States Internal Revenue Code of 1986, as may be amended from time to time. All references to "Code sections" shall include any applicable rulings and Regulations, and as of any future date shall automatically incorporate any amendments to such sections, and shall be deemed to refer to any comparable provisions of any future laws;
- (3) "Participant" means an employee or commissioner of Hamilton County participating in the Plan in accordance with the provisions of the Plan;
- (4) "Plan" means the Hamilton County Employees' Retirement Plan, as established and maintained by legislation enacted by the General Assembly of the State of Tennessee and approved by the Hamilton County legislative body;
- (5) "Plan Year" means each twelve-month period commencing July 1 and ending on the next June 30;
- (6) "Regulations" mean the Income Tax Regulations promulgated by the Secretary of the Treasury or a delegate of the Secretary of the Treasury, and as amended from time to time, including temporary regulations; and
- (7) "Spouse" means the person who is legally married to a Participant as determined under the laws of the State of Tennessee.

SECTION 12. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Hamilton County. Its approval or rejection shall be proclaimed by the presiding officer of the legislative body and certified to the Secretary of State.

SECTION 13. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 12.

Passed: May 13, 2014

## Private Acts of 2014 Chapter 70

AN ACT to amend Chapter 557 of the Private Acts of 1939; as amended by Chapter 76 of the Private Acts of 2004; and any other acts amendatory thereto, relative to the Hamilton County Employees' Retirement Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, such acts comprising the Hamilton County Employees' Retirement Act, herein referred to as "the Plan", and any other acts amendatory thereto, are hereby amended as provided in the subsequent sections of this act, generally effective as of July 1, 2013, with specific effective dates for certain sections as may be indicated in such sections.

SECTION 2. This act amends the Plan to comply with changes in the Internal Revenue Code of 1986, herein referred to as the "Code", and various regulations and other guidance, as set forth in the 2012 Cumulative List issued by the Internal Revenue Service in Notice 2012-76 for Cycle C plans, including, but not limited to, changes under the Pension Protection Act of 2006 (PPA '06); the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007; the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act); the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA); the Small Business Jobs Act of 2010 (SBJA); the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 201 0); and the Moving Ahead for Progress in the 21st Century Act (MAP-21).

SECTION 3. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of



2004, and any other acts amendatory thereto, is amended by deleting Section 25 in its entirety and substituting instead the following:

Section 25. Limitations on Benefits.

(a) The limitations of this Section 25 shall apply in Limitation Years beginning on or after July 1, 2007, except as otherwise provided herein.

(b) The Annual Benefit otherwise payable to a Participant at any time shall not exceed the Maximum Permissible Benefit. If the benefit the Participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the benefit shall be limited, or the rate of accrual reduced, to a benefit that does not exceed the Maximum Permissible Benefit.

(c) If the Participant is, or has ever been, a participant in another qualified defined benefit plan maintained by the County, the sum of the Participant's Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. Where the Participant's county-provided benefits under all such defined benefit plans, determined as of the same age, would exceed the Maximum Permissible Benefit applicable at that age, the County will reduce the rate of accrual in this Plan to the extent necessary so that the total Annual Benefit payable at any time under such plans will not exceed the Maximum Permissible Benefit.

(d) The application of the provisions of this Section 25 shall not cause the Maximum Permissible Benefit for any Participant to be less than the Participant's accrued benefit under all the defined benefit plans of the County as of the end of the last Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007, satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Code section 415 in effect as of the end of the last Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, as described in Regulation 1.415(a)-1 (g)(4).

(e) Definitions (In Addition to Those Capitalized Terms Defined in Section 34). For purposes of this Section 25, the following terms shall be defined as follows:

(1) "Annual Benefit" means a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Section 25. For a Participant who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date, and shall satisfy the limitations of this Section 25 as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Regulation 1.401 (a)-20, Q&A 10(d), and with regard to Regulation 1.415(b)-(1)(b)(ii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (i) survivor benefits payable to a surviving Spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Participant's benefit were paid in another form; (ii) benefits that are not directly related to retirement benefits, such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits; or (iii) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Code section 417(e)(3) and would otherwise satisfy the limitations of this Section 25, and the Plan provides that the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Section 25 applicable at the Annuity Starting Date, as increased in subsequent years pursuant to Code section 415( d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the Annual Benefit shall take into account Social Security supplements described in Code section 411 (a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Regulation 1.411 (d)-4, Q&A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

The determination of actuarial equivalence of forms of benefit other than a straight life

annuity shall be made in accordance with subsections (A) or (B) below.

(A) Benefit Forms Not Subject to Code section 417(e)(3). The straight life annuity that is actuarially equivalent to the Participant's form of benefit shall be determined under this subsection (A) if the form of the Participant's benefit is either (1) a nondecreasing annuity, other than a straight life annuity, payable for a period of not less than the life of the Participant, or, in the case of a qualified preretirement survivor annuity, the life of the surviving Spouse, or (2) an annuity that decreases during the life of the Participant merely because of (a) the death of the survivor annuitant, but only if the reduction is not below fifty percent (50%) of the benefit payable before the death of the survivor annuitant, or (b) the cessation or reduction of Social Security supplements or qualified disability payments, as defined in Code section 401 (a)(11).

(i) Limitation Years beginning before July 1, 2007. For Limitation Years beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table, or other tabular factor specified in Section 33 of the Plan for adjusting benefits in the same form; and (II) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan for that Annuity Starting Date.

(ii) Limitation Years beginning on or after July 1, 2007. For Limitation Years beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, the actuarially equivalent straight life annuity is equal to the greater of (I) the annual amount of the straight life annuity, if any, payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of benefit; and (II) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan for that Annuity Starting Date.

(B) Benefit Forms Subject to Code section 417(e)(3). As a governmental plan there are no benefits subject to Code section 417(e)(3).

(2) "Compensation" shall mean all of a Participant's wages within the meaning of Code section 3401 (a) and all other payments of compensation to an employee by the County for which the County is required to furnish the employee a written statement under Code sections 6041 (d), 6051 (a)(3), and 6052. Compensation shall be determined without regard to any rules under Code section 3401 (a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed, such as the exception for agricultural labor in Code section 3401 (a)(2). However, compensation shall exclude amounts paid or reimbursed by the County for moving expenses incurred by an employee, but only to the extent that at the time of the payment it is reasonable to believe that these amounts are deductible by the employee under Code section 217.

For Limitation Years beginning after December 31, 1991, for purposes of applying the limitations of this section, Compensation for a Limitation Year is the Compensation actually made available during such Limitation Year.

For Limitation Years beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, Compensation for a Limitation Year shall also include Compensation paid by the later of two and one-half (2½) months after an employee's severance from employment with the County, or the end of an elected or appointed term as commissioner, or the end of the calendar year that includes the date of the employee's severance from employment, or the end of an elected or appointed term as commissioner with the County, if:

(i) The payment is regular Compensation for services during the employee's regular working hours, or Compensation for services outside

the employee's regular working hours, such as overtime or shift differential, commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment, or service as commissioner with the County;

(ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or

(iii) The payment is received by the employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

Any payments not described above shall not be considered Compensation if paid after severance from employment, or end of term as commissioner, even if they are paid by the later of two and one-half (2½) months after the date of severance from employment or the end of the calendar year that includes the date of severance from employment, except, (i) payments to an individual who does not currently perform services for the County by reason of qualified military service within the meaning of Code section 414(u)(1), to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the County rather than entering qualified military service; or (ii) compensation paid to a Participant who is permanently and totally disabled, as defined in Code section 22(e)(3), provided, salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period, or the Participant was not a highly compensated employee, as defined in Code section 414(q), immediately before becoming disabled.

Back pay, within the meaning of Regulation 1.415(c)-2(g)(8) shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

For Limitation Years beginning after December 31, 1997, for purposes of applying the limitations of this Section 25, compensation paid or made available during such Limitation Year shall include any elective deferral, as defined in Code section 402(g)(3), and any amount which is contributed or deferred by the County at the election of the employee and which is not includible in the gross income of the employee by reason of Code section 125 or Code section 457.

For Limitation Years beginning on and after January 1, 2001, for purposes of applying the limitations of this Section 25, Compensation paid or made available during such Limitation Years shall include elective amounts that are not includible in the gross income of the Employee by reason of Code section 132(f)(4).

(3) "County" shall, for purposes of this Section 25, mean the County of Hamilton, Tennessee.

(4) "Defined Benefit Compensation Limitation" As a governmental plan, this Plan is not subject to the one hundred percent (100%) compensation limit of Code section 415(b).

(5) "Defined Benefit Dollar Limitation" shall mean, as of the general effective date of this act, two hundred five thousand dollars (\$205,000), the limit for the 2013 fiscal year, as may be automatically adjusted, effective January 1 of each year, by the Secretary of the Treasury under Code section 415(d) in such manner as the Secretary shall prescribe, and payable in the form of a straight-life annuity. A limitation as adjusted under Code section 415(d) will apply to Limitation Years ending with or within the calendar year for which the adjustment applies, but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The automatic annual adjustment provided under Code section 415(d) shall apply to Participants who have had a separation from employment.

(6) "Limitation Year" shall mean the Plan Year. All qualified plans maintained by the

County shall use the same Limitation Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, then the new Limitation Year shall begin on a date within the Limitation Year in which the amendment is made.

(7) "Maximum Permissible Amount" shall mean the Defined Benefit Dollar Limitation adjusted where required and to the extent applicable pursuant to subsections (A) and (B) below.

(A) Adjustment for Less Than Ten (10) Years of Participation or Service. If the Participant has less than ten (10) Years of Participation in the Plan, the Defined Benefit Dollar Limitation shall be multiplied by a fraction (i) the numerator of which is the number of Years, or part thereof, but not less than one (1) year, of Participation in the Plan, and (ii) the denominator of which is ten (10). This subsection (A) shall not apply to a distribution made on account of the Participant becoming disabled by reason of personal injuries or sickness or as a result of the Participant's death.

(B) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age Sixty-Two (62) or after Age Sixty-Five (65). The Defined Benefit Dollar Limitation shall be adjusted if the Annuity Starting Date of the Participant's benefit is after age sixty-five (65) as follows:

(i) Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (7)(A) above for years of participation less than ten (10), if required, with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and the mortality table, or other tabular factor specified in Section 33 of the Plan; or (2) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan.

(ii) Limitation Years Beginning On or After July 1, 2007.

A. Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-Five (65) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (7)(A) above for Years of Participation less than ten (10), if required, with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for that Annuity Starting Date as defined in Section 33 of the Plan, and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.

B. Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-Five (65) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan has an immediately commencing straight life annuity payable at both age

sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the lesser of the limitation determined under subsection (B)(ii)A, and the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for Years of Participation less than ten (10), if required, multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65), both determined without applying the limitations of this Section 25. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age sixty-five (65) and has the same accrued benefit as the Participant.

(iii) Notwithstanding the other requirements of this subsection (7)(B), no adjustment shall be made to the Defined Benefit Dollar Limitation to reflect the probability of a Participant's death between age sixty-five (65) and the Annuity Starting Date, as applicable, since benefits are not forfeited upon the death of the Participant prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity, as defined in Code section 417(c) upon the Participant's death.

(C) Minimum benefit permitted. Notwithstanding anything else in this definition to the contrary, the benefit otherwise accrued or payable to a Participant under this Plan shall be deemed not to exceed the Maximum Permissible Benefit if:

(i) The retirement benefits payable for a Limitation Year under any form of benefit with respect to such Participant under this Plan and under all other defined benefit plans, without regard to whether a plan has been terminated, ever maintained by the County do not exceed ten thousand dollars (\$10,000) multiplied by a fraction (I) the numerator of which is the Participant's number of years, or part thereof, but not less than one (1) year of service, not to exceed ten (10), with the County, and (II) the denominator of which is ten (10); and

(ii) The County has not at any time maintained a defined contribution plan in which the Participant participated. For this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under § 401 (h), and accounts for postretirement medical benefits established under § 419A(d)(1) are not considered a separate defined contribution plan.

(8) "Year of Participation" shall mean each accrual computation period, computed to fractional parts of a year, for which the following conditions are met: (i) the Participant is credited with at least the number of hours of service for benefit accrual purposes, required under the terms of the Plan in order to accrue benefit service, and (ii) the Participant is included as a Participant under the eligibility provisions of the Plan for at least one (1) day of the period of benefit service. If these two (2) conditions are met, the portion of a Year of Participation credited to the Participant shall equal the amount of benefit service credited to the Participant for such accrual computation period. A Participant who is permanently and totally disabled within the meaning of Code section 415(c)(3)(C)(i) for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for a Participant to receive a Year of Participation, or part thereof, for an

accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event will more than one Year of Participation be credited for any twelve-month period.

(f) Notwithstanding any provision of this Section 25, the application of this section shall be subject to such rules as may be prescribed by the Secretary of the Treasury.

SECTION 4. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 26 in its entirety and substituting instead the following:

Section 26. Limitation on Earnings.

(a) For purposes of computing any benefit under the Plan or any contribution made to the Plan, there shall be a limit on the amount of compensation that may be considered in any Plan Year for any Participant. The limit shall be the amount specified in this section as described below.

(b) For Plan Years beginning after December 31, 2001, the annual compensation of each Participant taken into account in determining benefit accruals in any Plan Year shall not exceed two hundred thousand dollars (\$200,000), as may be adjusted as set forth below. Annual compensation means compensation during the Plan Year or such other consecutive twelve-month period over which compensation is otherwise determined under the Plan, known as the determination period. The two hundred thousand dollar (\$200,000) limit on annual compensation in this subsection (b) shall be adjusted for cost-of-living increases in accordance with Code section 401 (a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

SECTION 5. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 28 in its entirety and substituting instead the following:

Section 28. Right to Direct Rollover. This section applies to distributions made on or after January 1, 2002. 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 Pension Commission, 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) 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 distribution that is one (1) of a series of substantially 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 (10) years or more; any distribution to the extent such distribution is required under Code section 401 (a)(9); and the portion of any distribution that is not includible in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(b) Eligible retirement plan: An "eligible retirement plan" is any of the following arrangements that accept the distributee's eligible rollover distribution:

- (1) An individual retirement account described in Code section 408(a);
- (2) An individual retirement annuity described in Code section 408(b);
- (3) An annuity plan described in Code section 403(a);
- (4) A qualified trust described in Code section 401 (a);
- (5) An annuity contract described in Code section 403(b);
- (6) An eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan; or
- (7) For distributions made after December 31, 2007, a Roth IRA described in Code section 408A(b).

A portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after tax Participant contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code section 408(a) or (b), or to a qualified defined contribution plan described in Code section 401 (a) or 403(a) that agrees to

separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

The definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a domestic relations order accepted by the Pension Commission.

(c) Distributee: A "distributee" includes an employee or former employee eligible for benefits under the Plan. 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 domestic relations order accepted by the Pension Commission, are distributees with regard to the interest of the Spouse or former Spouse.

Effective for distributions made after December 31, 2010, a "distributee" also includes a Participant's nonspouse beneficiary. However, in the case of a nonspouse beneficiary, the rollover must be a direct rollover and only can be made to an individual retirement account or annuity described in Code section 408(a) or 408(b) ("IRA") that is established on behalf of the beneficiary and will be treated as an inherited IRA pursuant to Code section 402(c)(ii). Also, in the case of a nonspouse beneficiary, the determination of any required minimum distribution under Code section 401 (a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18. If such distribution is made prior to January 1, 2010, it is not subject to the direct rollover requirements of Code section 401 (a)(31), the notice requirements of Code section 402(f) or the mandatory withholding requirements of Code section 3405(c). If a nonspouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a 60-day (nondirect) rollover.

If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary with the meaning of Code section 401 (a)(9)(E).

(d) Direct rollover: A direct rollover is a payment by the Plan to an eligible retirement plan specified by the distributee and as allowed by law.

SECTION 6. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 33 in its entirety and substituting instead the following:

#### Section 33. Actuarial Equivalent

(a) Effective July 1, 2002, "actuarial equivalent" shall mean a benefit of equivalent value on the basis of a seven and one-half percent (7.5%) interest rate, the RP-2000 Mortality Table for Employees (Male) for Members, and the RP- 2000 Mortality Table for Employees (Female) for Beneficiaries.

(b) Notwithstanding the foregoing, the mortality table and the interest rate for the purposes of determining the actuarial equivalent of the limitation on benefits per Section 25 shall be the "applicable mortality table" and the "applicable interest rate" described below:

(1) For Plan Years beginning before January 1, 2008, the "applicable interest rate" is the rate of interest on 30 year Treasury securities determined as of the "lookback month" for the "stability period," as explained in Subsection (3) below. For Plan Years beginning on or after January 1, 2008, the applicable interest rate is the adjusted first, second and third segment rates described in Code section 417(e)(3), as specified by the Commissioner of the Internal Revenue Service, for the lookback month preceding the stability period. For this purpose, the segment rates are the spot segment rates that would be determined for the applicable month under Code section 430(h)(2)(C) without the twenty-four-month averaging under Code section 430(h)(2)(D), and determined without regard to the adjustment for the 25-year average segment rates provided in Code section 430(h)(2)(C)(iv).

(2) For Plan Years beginning before January 1, 2009, the "applicable mortality table" is the table set forth in Rev. Rul. 2001-62. For Plan Years beginning on or after January 1, 2009, the applicable mortality tables are set forth in Regulation 1.430(h)(3)-1 and Internal Revenue Service Notice 2008-25.

(3) For purposes of this Section 33, the "stability period" is the plan year in which the Participant's Annuity Starting Date occurs, and the "lookback month" is the second full calendar month prior to the first day of the stability period.

(c) Notwithstanding the foregoing, except as provided in the Regulations, if a Plan amendment, including

amendments made by this act, changes the time for determining the "applicable interest rate", including an indirect change as a result of a change in the Plan Year, any distribution for which the Annuity Starting Date occurs in the 1-year period commencing at the time the Plan amendment is effective, if the amendment is effective on or after the adoption date, must use the interest rate as provided under the terms of the Plan after the effective date of the amendment, determined at either the date for determining the interest rate before the amendment or the date for determining the interest rate after the amendment, whichever results in the larger distribution. If the Plan amendment is adopted retroactively, that is, the amendment is effective prior to the adoption date, the Plan must use the interest rate determination date resulting in the larger distribution for the period beginning with the effective date and ending one (1) year after the adoption date.

SECTION 7. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Hamilton County. Its approval or rejection shall be proclaimed by the presiding officer of the legislative body and certified to the Secretary of State.

SECTION 8. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 7.

Passed: May 13, 2014

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