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## Chapter VI - Education/Schools

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Dear Reader:

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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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# Chapter VI - Education/Schools

## Board of Education

### Chairman

## Private Acts of 1929 Chapter 72

**SECTION 1.** That in all counties in this state having a population of not less than 115,000 and not more than 116,000 according to the Federal Census of 1920 or any subsequent Federal Census, there is hereby created the office of Chairman of the County Board of Education. Such Chairman shall be elected by the Quarterly County Court of said county and shall be selected from the membership of the County Board of Education that has been elected by said County Court; and the first election under this Act shall be made at the first regular or special session of said Quarterly County Court following the passage of this Act. The term of office of such Chairman so elected shall be two years.

**SECTION 2.** That all Chairman of Board of Education so elected and appointed shall devote their entire time to the duties of said office, and shall receive as compensation therefore the sum of \$3,000 per annum, payable monthly out of the school fund of said County in the same manner as other school funds are paid out.

**SECTION 3.** That said Chairman shall discharge all the duties relating to schools now required by law, and in addition thereto shall render any services required by the County Board of Education, or the County Judge.

**SECTION 4.** That it shall be the duty of the Chairman of the County Board of Education to preside at all meetings of said Board; to appoint committees authorized by said Board; to serve as Chairman of the Executive Committee; to serve as a member of the Committee to conduct examinations for teacher's certificate; to make a monthly report to the Commission of Grounds and Buildings as to the condition of all the County School Buildings, and to make suggestions as to what repairs are needed.

**SECTION 5.** That it shall be the duty of said Chairman to see that all County School Buildings are kept in a sanitary condition.

**SECTION 6.** That said Chairman shall visit the schools from time to time and advise with teachers and members of the Board of Education as to their condition and improvement.

**SECTION 7.** That it shall be the duty of said Chairman to sign all certificates and diplomas of pupils who complete the course of study prescribed for Elementary and High Schools.

**SECTION 8.** That Chapter 387 of the Private Acts of 1927 the substance of which is recited in the caption of this Act and all other laws and parts of laws in conflict with this Act be and the same are hereby repealed and that this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 1, 1929.

## Private Acts of 1917 Chapter 475

**COMPILER'S NOTE:** This act must be read in conjunction with Private Acts of 1983, Chapter 122, and Private Acts of 2022, Chapter 50, reproduced following this act.

**SECTION 1.** That in all the counties of Tennessee having a population of not less than 89,000 nor more than 90,000 by the Federal Census of 1910 or by any subsequent Federal Census, there shall be and is hereby created a Board of Education to be composed of seven residents of said counties, one of whom shall be designated as president of board, the member of said board to be elected as hereinafter provided, who at the time of their election shall have reached the age of thirty years and shall have previously resided in the counties affected at least one year. No member of said board shall be a candidate for or eligible to any other office, either State, county or municipal, during the term for which he or she is elected.

**SECTION 2.** That the members of both the Grammar and High School Boards in said counties and the members of all other school boards in said counties to which this act shall apply, shall be permitted to hold their office until the expiration of the same by law, but on the expiration of the terms of office of said members of said grammar and high school boards and all other members of school boards in said counties, their offices shall be abolished and the Quarterly County Courts in the counties affected by this act shall at the April term, 1918, elect the board of seven members herein provided, and the members of

said board shall hold their offices for a term of, to-wit: Three members and the president who shall serve for a term of four years and the other three members shall serve for a term of two years. The said Quarterly County Court in electing such officials shall designate the president of the board and each and all the other members of the board by name and the respective term of office shall serve. Such officials shall act until their successors in office shall be elected. And the said successors of the members of said Board of Education herein created, including the president thereof, shall also be elected by the Quarterly County Courts of the counties affected by this act, at the April term of said court herein every two and four years respectively. No compensation shall be paid to the members of said Board of Education herein provided for.

**SECTION 3.** That in each of said counties, on the first Monday of the month following the election of the members of the board herein provided for, said board shall meet and organize by electing a vice-president, a clerk of the board shall be appointed by the County Superintendent of Education in the counties to which this act shall apply.

The Secretary of said board shall be the County Superintendent of Education in said counties. It shall be the duty of the president to preside at all meetings of the board, and to sign all warrants duly authorized by resolution passed at any meeting of the board and by a majority vote of said board, and it shall be the duty of the vice-president to act for the president, in the event of his absence or disability. The board is authorized to adopt rules and by-laws for its government, and to provide for such committees as the majority of the board shall deem advisable. All vouchers and warrants issued by said board shall be countersigned by the said County Superintendent of Public Education in said counties.

**SECTION 4.** That from and after the election and qualification of the members of said Board of Education in the counties to which this act shall apply; the location, building, management and control of all the public schools of all grades in said counties, including all grammar and high schools, shall be vested in the said Board of Education herein created, together with the right to employ and fix the compensation of all principals, teachers, janitors, and other employes, and to pay such compensation to such persons and to maintain the grammar and high schools as now provided for by law, and to fix the grade and location of the same, to supervise the purchase of all needed supplies, where not otherwise provided by law, and generally to control the expenditure of all public school funds apportioned to said counties and levied and collected by them for school purposes.

**SECTION 5.** That it shall be the duty of said Board of Education to keep a register of the names of all the children in said counties within the school age in alphabetical order, with separate marked columns showing the name of the child and color, the name of the parent or guardian, the residence, the age, the school at which enrolled, the public or private school actually attended, the time of attendance, and a column for general information. To aid in the keeping of this register it shall be the duty of the enumerators taking the scholastic population to write down the names of each child, and of their parents or guardians, their residences, color and ages, and the school actually attended if not a public school of the county. It shall be the duty of the probation officer of the county, where such officer is otherwise provided by law in the counties to which this act shall apply, to furnish the Secretary of the said board the names of the children who do not attend school and the cause of their non-attendance. And it shall be the duty of the teacher or principal in charge of each public school of the county to furnish to the Secretary of the board a list of the pupils enrolled, their ages, color, and the days of attendance during each month. The register shall be compiled by the Secretary of the board from the information so obtained, and from such other sources as may be available. The expense of compiling and keeping such register shall be paid out of the public school funds, as other expenses are paid.

**SECTION 6.** That the said board shall fix the compensation of its Secretary, whose duty it shall be to keep a system of books containing an itemized statement of all funds credited to the board, all accounts payable and disbursements made, and a complete itemized record of all funds credited to the board and disbursed on warrants issued by it.

He shall make a statement to the board at least once each month of all accounts to be audited and paid, and of all petitions, claims and other matters to be considered by the board. It shall also be his duty to keep accurate minutes of all meetings of said board, in which shall appear a statement of each resolution or motion adopted.

**SECTION 7.** That the said Board of Education shall make to the April term of each Quarterly County Court in said counties a report showing the receipts and disbursements, the schools taught with the number of pupils attending, and teachers and employes employed in each and such other matters as they may deem advisable. They shall submit as a part of said report an itemized statement of the amount which will be required to run the schools for the ensuing year.

**SECTION 8.** That all the taxes levied by the Quarterly County Courts in said counties and all funds now collected as provided by law shall be continued in force in said counties and when so levied and collected

shall be kept by the county trustees in said counties separate from all other funds and shall be withdrawn only upon warrant as herein provided for.

**SECTION 9.** That the board shall have the power to appoint and fix the compensation of all teachers, assistants and employes necessary for the purpose of performing any duty prescribed by this act.

**SECTION 10.** That this law shall not apply to the schools of municipal corporations.

**SECTION 11.** That all laws and parts of laws in conflict with this Act be, and the same are hereby repealed.

**SECTION 12.** That this Act take effect from and after the first Monday in September, 1918, the public welfare requiring it.

Passed: April 2, 1917.

## Private Acts of 1983 Chapter 122

**SECTION 1.** Beginning July 1, 1983, the term of office for each member of the Hamilton County Board of Education shall be for four (4) years. As the term of each member of the existing board of education expires, the county legislative body shall appoint the new member for a term of four (4) years, the term beginning on July 1 of the year of appointment.

**SECTION 2.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Hamilton County before June 30, 1983. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

**SECTION 3.** 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 2.

Passed: April 28, 1983.

## Private Acts of 2022 Chapter 50

**COMPILER'S NOTE:** Because this act is an addition rather than an amendment to the original act (Private Acts of 1917, Chapter 475), and does not specifically state where the addition is to be made within the original act, it is published in full herein.

**SECTION 1.** Chapter 235 of the Private Acts of 1992, and any other acts amendatory thereto, are hereby repealed. Chapter 475, of the Private Acts of 1917, as amended by Chapter 122 of the Private Acts of 1983, and any other acts amendatory thereto, is further amended by adding the provisions of Sections 2 and 3 of this act.

**SECTION 2.** Hamilton County shall be divided into school districts which shall be coextensive with the county commissioner districts established by the county legislative body of Hamilton County from time to time. The Hamilton County Board of Education shall consist of the same number of members as the number of county commissioner districts in Hamilton County, with one (1) member of such Board of Education being elected by the qualified voters in each school district. Members shall be residents of the district from which elected. Board members shall be elected to staggered four (4) year terms so that every two (2) years the terms of approximately one-half (1/2) the members of the Board shall expire. Persons elected in the regular August elections shall take office on September 1, following the election and shall serve until their successors are duly elected and qualified.

**SECTION 3.** The current term of incumbent members of the Hamilton County Board of Education shall not be abridged as a result of changes in school districts as provided in this act. In order to establish staggered terms and to increase the number of board members from nine (9) to eleven (11), board members shall be elected as follows:

At the August 2022 election, members from School Districts 3, 5, 6, 8, and 9 shall be elected to serve a term of four (4) years and every four (4) years thereafter.

At the August 2022 election, members from School Districts 10 and 11 shall be elected to serve a term of two (2) years.

At the August 2024 election, members from School Districts 1, 2, 4, 7, 10, and 11 shall be elected to serve a term of four (4) years and every four (4) years thereafter.

**SECTION 4.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect

without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

**SECTION 5.** 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 nonapproval shall be proclaimed by the presiding officer of the legislative body of Hamilton County and certified to the secretary of state.

**SECTION 6.** 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 as provided in Section 5.

Passed: April 8, 2022.

## Bonny Oaks School

### Private Acts of 1957 Chapter 243

**SECTION 1.** That there is hereby re-established the management, operations and control of the Bonny Oaks School for dependent and neglected youthful persons in Hamilton County, Tennessee, located on Bonny Oaks Drive in Hamilton County, and the present Board of Trustees, namely: Z. Cartter Patten, Creed F. Bates, Martin Ochs, W. Clarence Hudlow, and the County Judge of Hamilton County, Tennessee, and their successors shall constitute and be the Board of Trustees of the Bonny Oaks School, which is vested with the exclusive management, supervision and control of the Bonny Oaks School, located on Bonny Oaks Drive in Hamilton County, Tennessee, together with all properties, personnel and the entire operations pertaining thereto. The Board of Trustees shall be appointed and selected as provided in this Act, four (4) of whom shall be appointed by the concurrent action of the Judges of the Law and Chancery Courts of Hamilton County, Tennessee, the fifth (5th) shall be the County Judge of Hamilton County, Tennessee, who shall be ex officio a [sic] member of said Board of Trustees. Upon and by the passage of this Act, Z. Cartter Patton shall be appointed for a term of one (1) year; W. Clarence Hudlow shall be appointed for a term of two (2) years; Creed F. Bates shall be appointed for a term of three (3) years; Martin Ochs shall be appointed for a term of four (4) years. Upon the expiration of any of the terms of said appointments all appointments shall be made by the Judges for a term of four (4) years, with the exception of appointments made for unexpired terms where vacancy is caused by death, resignation or removal. The appointments made by the Judges of the Law and Chancery Courts of Hamilton County, Tennessee, may be made by them at Chambers as well as during term time and the order for such appointments may be spread on the records of either of said Courts, and a duly certified copy thereof, under the certification and seal of the Clerk of said Court shall be sufficient evidence of an appointment.

**SECTION 2.** That funds for the operation of The Bonny Oaks School and its personnel and entire operations shall continue to be furnished by Hamilton County, although the distribution of such funds shall be exclusively within the discretion of said Board of Trustees.

**SECTION 3.** That the Board shall have exclusive authority to hire personnel necessary to effect the purpose of this Act, and the operations of The Bonny Oaks School; to fix the wages and determine the conditions of employment and to define the duties. The Board shall have exclusive authority to make reasonable rules and regulations proper for the operations and maintenance of the school and shall also have full and complete authority over the grounds, buildings and personnel, equipment, operations and any and everything pertaining to said School. The Trustees shall have exclusive authority of approval of admissions and dismissals and to make rules and regulations for the entrance of any youthful persons to the school.

**SECTION 4.** That said School shall continue a body politic and corporate under the name and style of THE BONNY OAKS SCHOOL. It shall have the power to sue and be sued by the corporate name; to have and use a corporate seal; to purchase and hold or receive by requests, gifts or devise in addition to its personal property owned by the corporation, real estate for the transaction of the corporate business and the promotion of the purpose of the School; also to purchase and accept any real estate in payment, or part payment, due the corporation and to sell the same, and shall have the right to sell, convey or dispose of any of its property, real or personal for the use and benefit of THE BONNY OAKS SCHOOL.

**SECTION 5.** That title to all the properties of THE BONNY OAKS SCHOOL, real, personal and mixed owned and held by Hamilton County, Tennessee, and the Trustees of THE BONNY OAKS SCHOOL for the use and benefit of the school before the passage of this Act are hereby vested by this Act in the Trustees of THE BONNY OAKS SCHOOL for the maintenance and operations of said School, and the Trustees of THE BONNY OAKS SCHOOL are hereby authorized to sell, convey and dispose of said properties for the use and benefit of said School.

**SECTION 6.** That the governing body of Hamilton County may abolish said School and the Board of Trustees in charge thereof, by a proper Resolution of the governing body of Hamilton County, and after the passage of said Resolution said Board of Trustees shall cease to have or exercise any authority over said School, and the properties, if any, owned by said School shall be and become a part of the general property of Hamilton County.

**SECTION 7.** That before this Act becomes effective the same must be approved by a two-thirds (2/3) majority of the governing body of Hamilton County, and that said vote shall be taken within thirty (30) days from the enactment of this Act.

**SECTION 8.** That all laws or parts of laws 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 14, 1957.

## Courses of Study

### Public Acts of 1971 Chapter 287

**COMPILER'S NOTE:** The following act is a public act of special application and is not codified in Tennessee Code Annotated.

**SECTION 1.** Enriched courses of study, as hereinbelow defined, in subjects prescribed by statute as part of the regular school curriculum or courses of study in subjects not prescribed by statute as part of the regular curriculum (but not forbidden by statute to be taught) may be, with the approval of the board of education of a school system, provided at any school within the system, and attendance at such courses may be restricted to those upon whose behalf payments are made to finance the courses; provided that:

(a) Such courses shall be financed entirely by voluntary contributions or payments by the parents of those attending such courses, or by other private contributions;

(b) Courses in subjects not prescribed by statute as part of the regular curriculum may be required by a board of education to be conducted outside regular school hours, but only if such requirement shall be imposed by such board of education prior to the beginning of the school year;

(c) The teachers of such courses have been certified in accordance with Chapter 12 of this Title 49, as amended.

**SECTION 2.** Enriched courses of study conducted in accordance with Section 1 of this act shall be supervised by the principal of the school in which conducted in cooperation with those sponsoring and financing such courses; provided, however, that the sponsoring persons or agency shall assume full financial responsibility for such courses.

**SECTION 3.** "Enriched courses of study" as used in this act shall mean courses conducted by persons other than the regularly employed teachers of the school in which conducted and reasonably qualified in the subject of such courses, in addition to, and not in lieu of, all courses prescribed by statute as a part of the regular curriculum.

**SECTION 4.** The provisions of this Act shall apply only to counties having a population of at least 250,000 and not more than 280,000 according to the 1970 Federal Census and any subsequent Federal Census.

As amended by: Private Acts of 1972, Chapter 638, Section 1

**SECTION 5.** This Act shall take effect on becoming a law, the public welfare requiring it.

Passed: May 18, 1971.

## Employees

### Private Acts of 1935 Chapter 257

**COMPILER'S NOTE:** Private Acts of 1949, Chapter 193, immediately following, does not repeal any but the conflicting portions of this act. Both acts are published herein so that a comparison of the two will reveal those provisions of both which are in effect.

**SECTION 1.** That in all counties in the State of Tennessee, having a population of not less than 159,000, nor more than 200,000, according to the Federal Census of 1930, or any subsequent Federal Census, the

teachers and principals of schools of such counties shall have certain qualifications and certain tenure of office as herein set forth.

**SECTION 2.** That all teachers employed by the school authorities of said counties shall have been awarded a degree of Bachelor of Arts or a degree of Bachelor of Science, or shall have an education equivalent thereto, from a standard senior college or university and shall have had at least 27 quarter hours in education, *provided* that this section shall not apply to those teachers already employed or on leave of absence, *provided further* that nothing in this section shall apply to teachers of vocational schools who meet requirements of State Board of Education, and to provide further that nothing in this section shall be construed as prohibiting the employment of persons to teach special subjects in the interests of handicapped persons which are not embodied in the regular educational program of the County.

**SECTION 3.** That any principal or assistant principal hereafter employed by the school authorities of said counties in a school in which eight or more teachers are engaged shall have been awarded a Master's degree from a standard senior college or university and shall have also had at least three years of teaching experience and also shall have had at least 36 quarter hours in education, of which at least nine quarter hours shall be in the field of administration; *provided, however*, that in a school employing less than eight teachers the principal shall be qualified in the same manner and degree provided herein for teachers, and *provided further* that this section shall not apply to those principals already employed or on leave of absence, and *provided further* that nothing in this section shall be construed as applying to principals of vocational schools who meet requirements of State Board of Education: and *provided further* that this section shall not apply to teachers already employed.

**SECTION 4.** That all teachers and principals employed by school authorities of said counties during the first two years of employment shall be considered as probationary teachers and principals, during which time they shall be employed on annual contract which may or may not be renewed at the discretion of the employing authority, *provided* that in event of dismissal during the period covered by contract the teacher or principal shall have the same right of hearing as provided for teachers and principals on permanent tenure.

**SECTION 5.** That all teachers and principals now employed by the school authorities of said counties who have served for two years or those who have not served for two years upon the completion of two years of satisfactory service and all teachers and principals hereafter employed upon the completion of two year of satisfactory service, shall be employed on permanent tenure of office and shall not be demoted or dismissed except for cause, inefficiency or immorality or on account of discontinuance of position, in which latter case the teacher or principal shall receive the first appointment to any position for which qualified.

**SECTION 6.** That no teacher or principal employed by the school authorities of said counties shall be peremptorily or arbitrarily demoted or dismissed but shall receive written notice that demotion or termination of service is contemplated on a specific date and the notified teacher or principal may thereupon request that a written statement as to the grounds of demotion or dismissal shall be made, and following the delivery of such written statement the teacher or principal shall have fifteen days in which to request a hearing of said grounds as hereinafter provided.

**SECTION 7.** That the Chairman of the County Board of Education of said counties upon request for hearing being delivered to him or her in writing shall set a date for such hearing which date shall not be less than seven days nor more than twenty-one days after request for such hearing has been made, and the Chairman and the County Board of Education of said counties shall hold such hearing at which time the teacher or principal shall have the right to be represented by counsel.

**SECTION 8.** That said County Board of Education of said counties shall issue writs of subpoena on request of either party to compel attendance of witnesses to testify at the hearing of such investigation, such subpoenas shall be signed by the Chairman of the County Board of Education of said counties and be served and obeyed in the same manner as subpoenas issued by Justices of the Peace under the general statutes of Tennessee, and any failure to obey such subpoenas may be enforced or punished in the same manner and to the same extent as is now provided by law for enforcing or punishing failure to obey subpoenas issued by Justices of the Peace. The Chairman of the County Board of Education of said counties is hereby authorized to administer oath to witnesses at such hearing. Such hearing shall be held at the Courthouse in said counties and shall be public unless private hearing is agreeable to parties filing the complaint and to the teacher or principal.

**SECTION 9.** That the Chairman of the County Board of Education of said counties shall preside at such hearing and the decision shall be rendered by a majority of the members of the County Board of Education of said counties unless there is a tie, in which case the deciding vote shall be cast by the Chairman. Upon the hearing said Chairman and County Board of Education shall consider the charges as preferred and the evidence thereon and upon rendering their decision shall immediately notify the teacher or principal involved, or their attorney of records. Notice mailed to the address, which must be furnished said



Chairman by the parties, will be sufficient notification. If the decision is rendered in the presence of the teacher or principal against whom the charges have been made, no other notification will be necessary. Either party upon execution of cost bond or taking pauper's oath will have seven days, from the time notice is given of its decision by the County Board of Education, in which to perfect an appeal by certiorari or otherwise to the Chancery Court of said counties, for a review of question of law and fact.

As amended by: Private Acts of 1935 (1<sup>st</sup> Spec. Sess.), Chapter 81

**SECTION 10.** That if on final disposition of the case the employment of said teacher or principal is not terminated any unpaid salary during his or her suspension shall be paid in full.

**SECTION 11.** That a transfer of a teacher or principal from one position to another for which he or she is qualified, or from one school to another at the same salary, or the same comparative salary, if there has been a general salary increase or reduction, shall not be considered as a demotion.

**SECTION 12.** That if any sentence, clause or section of this Act be held unconstitutional, or the application of said Act be held unconstitutional, with respect to any person or circumstance, such holding shall not affect any other sentence, clause or section or application to any other person or circumstance.

**SECTION 13.** That all laws and parts of laws in conflict with the provisions of this Act be, and the same are hereby repealed, and that this Act shall take effect thirty (30) days after its passage, the public welfare requiring it.

Passed: March 29, 1935.

## Private Acts of 1949 Chapter 193

**SECTION 1.** That the provisions of this Act shall apply to all counties in the State of Tennessee having a population of not less than One Hundred Eighty Thousand Four Hundred (180,400) nor more than One Hundred Eighty Thousand Five Hundred (180,500), according to the Federal Census of 1940, or any subsequent Federal Census.

**SECTION 2.** That the meaning of the following words or phrases, used in this Act, shall be as set out in this section, unless the context clearly requires a different meaning:

"Board" means the County Board of Education;

"Chairman" means the Chairman of the County Board of Education;

"Demote" includes employment at, or transfer to, a position of lesser rank or pay;

"Dismiss" includes the failure to renew a contract of an employee;

"Employee" means a principal, teacher, instructor or supervisor who heretofore or hereafter has been employed for more than two years in the county elementary or high schools of counties subject to this Act;

"Hearing" includes the right to be present and to be heard in person and by counsel, and to have compulsory process to compel the attendance of witnesses;

"Superintendent" means the County Superintendent of Public Instruction.

**SECTION 3.** That an employee shall not be dismissed or demoted except for improper conduct, inefficient service, or neglect of duty, and after charges, notice, hearing and determination thereof, as provided in this Act; or, for lack of funds or abolition of position, subject to the rights of the employee as hereinafter provided.

**SECTION 4.** That written charges in duplicate against an employee shall be filed with the Chairman, setting out specifically the grounds of complaint. Charges must be filed and signed by not less than ten (10) patrons of the school where the employee is employed, or by the Superintendent. In the event the duties of the employee involve more than one school, the patrons of any one of the schools may file charges. Within three (3) days after receipt of the charges the Chairman shall furnish the employee with one of the copies.

**SECTION 5.** That within five (5) days after the employee receives a copy of the charges the employee may make a written request to the Chairman for a hearing before the Board. The Chairman shall thereupon set a date for the hearing, which shall not be less than thirty (30) days nor more than forty-five (45) days after receipt of the request for a hearing. The hearing shall be public, unless the employee request a private hearing. The hearing shall be at the courthouse of the county, in the room where the Board customarily meets, or in such other room as the Chairman may designate. The Chairman shall give the employee immediate notice in writing of the time and place of the hearing.

**SECTION 6.** That the Chairman shall have the power to issue subpoenas to compel the attendance of witnesses, and shall issue such subpoenas upon the request of any party. The subpoenas shall be issued and served in the same manner as subpoenas issued by the clerk of the courts of record of the county. Failure to obey a subpoena shall constitute a contempt and may be punished upon petition filed in the Circuit Court of the county. The Chairman shall have the power to administer oaths or affirmations to the witnesses or parties. The Chairman shall have a stenographic transcript of the proceedings made and preserved and shall furnish a copy of same to the employee within ten (10) days after the conclusion of the hearing. The costs incident to the issuance of subpoenas and the stenographic transcript shall be paid by the Board.

**SECTION 7.** That the Board shall render its decision as expeditiously as possible after the conclusion of the hearing and shall file its written findings and decision, which shall become a part of the record. The Chairman shall furnish the employee with a copy of the findings and decision immediately upon rendering the same. Any findings or decision made orally, at the hearing or in the presence of the employee, shall be reduced to writing, filed and copy furnished the employee, as herein provided, and shall not be effective until this is done.

**SECTION 8.** That any party dissatisfied with the decision of the Board may appeal therefrom by petition for common law or statutory writ of certiorari filed in the Circuit or Chancery Court of the county.

**SECTION 9.** That an employee may be suspended from active duty upon the filing of charges, but the salary of the employee shall continue until decision by the Board, and shall be paid until that time regardless of whether the Board's decision is favorable or adverse to the employee. In the event the decision of the Board is adverse to the employee, the payment of salary may be discontinued pending final determination by the courts. If such final determination is favorable to the employee, the employee shall be reinstated and any salary unpaid during suspension shall be paid in full. In the event the employee does not request a hearing the salary shall be discontinued at the expiration of the time allowed for the employes [sic] to request a hearing.

**SECTION 10.** That any employee who is dismissed or demoted because of lack of funds or discontinuance of position shall be reemployed at the first opportunity. Full seniority rights shall be protected in making dismissals and demotions for these causes and in the reemployment of employees who have been dismissed or demoted for these causes.

**SECTION 11.** That a leave of absence granted by the Board, upon request of the employee, shall not prejudice an employee's rights under this Act. A leave of absence without the consent of the employee shall be deemed a dismissal.

**SECTION 12.** That the provisions of this Act shall apply only to those employees who hold certificates or permits issued by the Commissioner of Education of the State of Tennessee, and only for the time such certificates or permits are in effect.

**SECTION 13.** That nothing herein shall prevent the transfer of an employee from one position to another position of the same rank and pay.

**SECTION 14.** That an employee dismissed or demoted contrary to the provisions of this Act shall be entitled to recover the full amount of the salary unpaid because of the dismissal or demotion and shall be entitled to be reinstated; and, may sue to recover such salary or for reinstatement, or both, in any court or courts of competent jurisdiction.

**SECTION 15.** That if any sentence, clause or section of this Act be held unconstitutional, or the application of said Act be held unconstitutional, with respect to any person or circumstances, such holding shall not affect any other sentence, clause, or section or application to any other person or circumstance.

**SECTION 16.** That all laws and parts of laws in conflict with the provisions of this Act be, and the same hereby are repealed, and that this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 17, 1949.

## Insurance and Pension Fund Employees' Retirement Act

### Private Acts of 1937 Chapter 689

**SECTION 1.** That in all counties in the State of Tennessee, having a population of not less than 159,000, nor more than 200,000, according to the Federal Census of 1930, or any subsequent Federal Census, the Board of Education and the Quarterly County Court, be and the same are hereby authorized and required to create a fund, in manner hereinafter provided, to be known as the Department of Education's Insurance

and Pension Fund, which fund shall be for the benefit of the employees and their beneficiaries of the Department of Education of said counties as provided in this Act.

**SECTION 2.** That each year after the County has adopted a budget for the Department of Education, the County shall be required to place in the Department of Education Insurance and Pension Fund an amount which shall be not less than 9% of the payroll of the employees participating in the Department of Education Insurance and Pension Fund.

As amended by: Private Acts of 1945, Chapter 242  
Private Acts of 1951, Chapter 186

**SECTION 3.** That each and every employee of the Department of Education who shall elect to participate in said insurance and pension fund shall be assessed not to exceed 5% of his or her salary. Said amount shall be deducted from the monthly pay and so shown on the payroll and the total amount of deduction shall be made by the proper official and placed in the Department of Education's Insurance and Pension Fund to be kept by the county trustee as a separate account. The amount which the county shall be required to pay and contribute to said fund shall be not less than an annual tax of 4 cents on each \$100.00 of assessed valuation upon all taxable property and taxable privileges within the county in order to provide revenue for the payment of pensions to participating members of said Department of Education Insurance and Pension Fund. The Quarterly County Court of said county, or counties, and the County Council is hereby empowered and required to levy said tax and appropriate same; and, that the County Council shall at not time permit the minimum surplus of money in said insurance and pension fund to be less than \$10,000.00, and shall appropriate from time to time such amounts as may be necessary to maintain said minimum of surplus of \$10,000.00 from the miscellaneous funds of the county.

As amended by: Private Acts of 1951, Chapter 186

**SECTION 4.** That each and every employee of the Department of Education who shall elect to participate in said insurance and pension fund shall be assessed not to exceed 5% of his or her salary. Said amount shall be deducted from the monthly pay and so shown on the payroll and the total amount of deduction shall be made by the proper official and placed in the Department of Education's Insurance and Pension Fund to be kept by the county trustee as a separate account. The amount which the county shall be required to pay and contribute to said fund shall be not less than an annual tax of 4 cents on each \$100.00 of assessed valuation upon all taxable property and taxable privileges within the county in order to provide revenue for the payment of pensions to participating members of said Department of Education Insurance and Pension Fund. The Quarterly County Court of said county, or counties, and the County Council is hereby empowered and required to levy said tax and appropriate same; and, that the County Council shall at no time permit the minimum surplus of money in said insurance and pension fund to be less than \$10,000.00, and shall appropriate from time to time such amounts as may be necessary to maintain said minimum of surplus of \$10,000.00 from the miscellaneous funds of the county.

As amended by: Private Acts of 1945, Chapter 242  
Private Acts of 1951, Chapter 186

**SECTION 5.** That it shall be optional with the present employees of said Department of Education as to whether they shall participate in said Insurance and Pension Fund benefit; but each employee of the Department of Education on payroll at the time of the passage of this Act shall make known to the Superintendent of Education his or her intention to participate or not to participate in said fund by July 1, 1945, except that teachers who may wish to participate by July 1, 1945 may do so only after having paid a sum of money equal to the accumulated annual payments plus interest at 6% covering the period from the date of the Act instituting this retirement system plan to the date upon which payment is made that places them on the participation list, and that teachers serving regular probation period are entitled to participate at the termination of their probationary period, *Provided*, all persons employed after the passage of this Act who would be eligible to join the State of Tennessee Retirement System For Teachers will be ineligible to participate in the Hamilton County Teacher's Retirement Plan.

As amended by: Private Acts of 1945, Chapter 242

**SECTION 6.** That the said per cent which shall be added to the annual budget of the Department of Education as herein provided, shall be placed in said separate fund in four (4) equal installments, the first installment to be paid September 1st and the balance in three (3), six (6), and nine (9) months thereafter.

**SECTION 7.** That the said Pension Commission shall hear and decide all applications for pensions and death benefits under this Act, and its decisions on such applications shall be final and conclusive. The Superintendent of Education, at any time an employee has become unfit for service, on account of disability, or age, after a total of twenty years of service, may, subject to the approval of the Board of Education, order the retirement of such employee on a full pension and pay him or her such an amount as he or she would be entitled to if he or she had made application to said Board of Education for retirement; *provided*, however, the Superintendent of Education must give such employee at least ten-day written notice before any action is taken on his or her enforced retirement, and during said ten-day period such

employee may file written request with the Chairman of the Board of Education demanding a hearing before the Board of Education, and on such request being filed by such employee, he or she will be entitled to such hearing, which shall be held not earlier than ten-days after the request therefor has been filed. At such hearing either party will be entitled to introduce competent testimony and witnesses and be represented by counsel. Any such employee dissatisfied with the decision of the Board of Education may, within ten-days after such decision, file a petition for certiorari in the Chancery Court of said county or counties for the purpose of trial de nove, upon execution of bond for costs or in lieu thereof upon taking and filing pauper's oath, and unless such petition for certiorari is filed with said time the findings of the Board of Education shall be final; *provided*, however, that after an employee of the Department of Education has reached seventy (70) years of age his or her retirement shall be compulsory.

As amended by: Private Acts of 1945, Chapter 242

**SECTION 8.** That after an employee of the Department of Education, who elects to participate in said fund, has served not less than twenty years and becomes physically disabled, he or she may, at the discretion of the Board of Education, be retired on a full pension and paid a sum equal to fifty per cent of the basic monthly salary based on his or her average monthly salary for the three highest consecutive years of his or her employment in said Department of Education. Any employee of the Department of Education who has served not less than Twenty-Five years and has reached the age of Fifty-Five (55) years may request and demand that he be retired on a pension and paid a sum equal to fifty per cent of his basic monthly salary based on his or her average monthly salary for the highest three consecutive (sic) years of his or her employment in the said Department of Education. Provided, that those who are now eligible or will be eligible by May 24, 1945 to retire on account of twenty-five years of service or have twenty years of service and are fifty-five (55) years of age, may request and demand that he or she be retired on a pension as provided under the original Act. After any employee of the Department of Education has served not less than ten years and becomes physically disabled, and because of such disability is unable to discharge the duties required of him or her, and has been dropped from the payroll of the County, such employee shall be retired on a partial pension at a sum equal to twenty-five per cent of his or her basic monthly salary based on his or her average monthly salary for the highest three consecutive years of his or her employment in said Department of Education. After any employee of said Department has served not less than fifteen years and becomes physically disabled, and because of such disability is unable to discharge the duties required of him, and has been dropped from the payroll of the County, such employee shall be retired on a partial pension at a sum equal to thirty-seven and one-half per cent of his or her basic monthly salary based on his or her average monthly salary for the highest three consecutive yearh (sic) of his or her employment in the said Department of Education. Except that no payment shall exceed the limit hereinafter set forth. At the death of any employee or pensioner of the Department of Education there shall be paid his or her beneficiary, or beneficiaries, the sum of Two Hundred and Fifty (\$250.00) Dollars.

As amended by: Private Acts of 1945, Chapter 242

**SECTION 9.** That the full amount of pension any employee shall be entitled to, shall not be less than fifty per cent of the employee's basic monthly salary based on his or her average monthly salary for the highest three consecutive years of his or her employment in said Department of Education, and shall be paid monthly throughout the year; provided, however, that the maximum amount any employee shall receive as a pension shall be One Hundred and Twenty-five (\$125.00) Dollars per month. In computing the time served by an applicant for a pension, if such applicant has been employed in other departments of said county or in any special district of said county and has been employed as much as eight years in the Department of Education of either, such applicant shall be given credit for the time served in such other departments. Any applicant who has taught in a separate school system within said county or may so do and who at the time of application be a regular employee of the said County Board of Education, shall be given credit for the time served in the schools of the said system. In computing the time served by an applicant for a pension credit shall be given for the time employed by the Department of Education of any other City, County or State; *provided*, however, such applicant pay to said insurance and pension fund one per cent of his or her salary for each and every year of such service claimed, to be based on the salary paid such applicant for the first year of service in the county or counties affected by this Act, plus interest at six per cent covering the period from the date this Act becomes effective to the date upon which such payments are made; provided, however, that no applicant will be entitled to credit for the time employed by the Department of Education in any other City, County or State, unless he or she shall have been employed for as much as fifteen (15) years by the Department of Education of the county or counties affected by this Act.

As amended by: Private Acts of 1945, Chapter 242

**SECTION 10.** That if any employee of the Department of Education while engaged in the discharge of his or her duties shall receive injuries resulting in such employee becoming disabled from performing his or her duties, he or she shall be placed on a full pension and paid the amount heretofore provided, regardless of the length of time served; provided, however, that before such injured employee shall be

retired on a pension the Board of education shall have the right to have him or her examined by competent physicians to determine whether or not such disabled employee is unable to discharge his or her regular, or any other duty that may be required of him or her by officials of the Department of Education; and *provided*, further, that no disabled employee shall be retired on a pension because of injury until six months after such injury was received. Any employee retired on a pension because of any injury, in event of recovery to the extent that he or she is again able to perform any duty required of him or her shall be removed from the pension roll and reinstated in service, provided his or her salary shall not be less than it was at the time of injury. If such employee who has been placed upon the pension roll refuses to allow himself or herself to be examined by physicians selected by the Board, the Pension Commission shall suspend his pension until such times as he may permit an examination by the physicians selected by the Board of Education. Provided that the physician or physicians selected shall be agreeable to the teacher involved and the County School Board.

As amended by: Private Acts of 1945, Chapter 242

**SECTION 11.** That the insurance, or pension fund either before or after its distribution by the County Trustee to disabled or retired employees of said Department of Education, or to the beneficiary of any deceased employee or pensioner, shall be exempt from the debts of such employees and shall not be subject to attachment, garnishment, execution, or other legal process, but that the same shall be received by such employee, or beneficiary, free from the debts, judgments and demands of such employees or beneficiary.

**SECTION 12.** That any employee of the Department of Education who has served not less than twenty years shall not be deprived of his or her rights to a pension as provided for in this Act for any reason less than the conviction of a felony in a court of competent jurisdiction.

"Employees of the Department of Education" as used in this Act shall mean the Superintendent of Schools, Assistant Superintendent, Department Heads, Supervisors, Visiting Teachers, Teachers, Principals, Clerks employed in the office of the Department of Education, Attendance Officers, Librarians, Janitors and all others on the Department of Education payroll, or on the county payroll yet whose work is entirely in the Department of Education.

**SECTION 13.** That the Board of Education shall assemble and keep on file in the office of the Department of Education, the service records of all employees of the Department of Education. These records shall show years of employment, monthly salaries, and any other information deemed necessary by the Board of Education. Said service records shall be brought up to date each year.

**SECTION 14.** That a person receiving a pension from said county who accepts any position with any public tax supported organization (sic) within the county shall be removed from the Pension Roll during such time of employment; *Provided, however*, that upon the termination of such employment said pensioner shall receive the amount per month as originally awarded. That any person hereafter, retired on his own application under sixty years of age, receiving a pension from said County who accepts any teaching position with any other public or private school, shall be removed from the pension roll.

As amended by: Private Acts of 1945, Chapter 242

**SECTION 15.** That there shall be kept by Pension Commission a book to be known as *The List of Retired Employees of the Department of Education*. This book shall give full and complete record of the action of the Pension Commission in retiring any and all persons. Such records shall give names, date of retirement and the reasons therefor as to all persons retired. All employees seeking retirement or pensions for permanent disability shall make application to the Pension Commission on a form to be provided by the said Commission, which application shall be accompanied by proof of facts entitling retirement, or proper medical proof of disability. All applications and proofs shall be retained in the custody of the Pension Commission. Due notice of application shall be recorded by the Pension Commission and the applicant shall be notified five (5) days in advance of the hearing by the Commission of his or her application, should for any reason the Commission request further evidence of need for retirement.

As amended by: Private Acts of 1945, Chapter 242

**SECTION 16.** That every employee of the Department of Education having beneficiaries who, in event of his or her death may be entitled to any benefits, shall file with the Pension Commission the names of his or her beneficiaries in the order of their preference, stating the relationship of each to said employee. *Provided, however*, that failure to file the names required by this section shall not deprive the employee or his legal beneficiaries of any rights under this Act.

As amended by: Private Acts of 1945, Chapter 242

**SECTION 17.** That this Act shall receive a liberal interpretation, and construction, and if any word, clause, paragraph, or section shall seem to deny the intent of this Act then such portion shall be ignored.

**SECTION 18.** That all laws and portions of laws in conflict with this Act be, and the same are, hereby repealed.

**SECTION 19.** That this Act take effect on the first day of July, 1937, the public welfare requiring it.

Passed: May 18, 1937.

## Private Acts of 1969 Chapter 96

**SECTION 1.** That as of the effective date of this Act that each participant in the Hamilton County Department of Education Insurance and Pension Fund shall have an adjusted equity to be determined by allowing \$90.00 for each year of service at 4% interest compound annually for the years 1945-52 and by allowing \$180.00 for each year of service at 4% interest compounded annually for the school year 1952-53 and for each year thereafter until retirement, the sum of these two periods of contribution shall continue to draw interest as stated above until all of the adjusted equity less the money that has been or will be paid to the participant from said Fund that did not come from the Tennessee Teachers' Retirement System, and also less the \$250.00 death benefit, and for any participant whose pension of \$150.00 per month that is not fully funded by the Tennessee Teachers' Retirement System, that participant's adjusted equity shall also be reduced by 120 times the differences between \$150.00 and that participant's monthly payment from the Tennessee Teachers' Retirement System to the Hamilton County Department of Education Insurance and Pension Fund.

As amended by: Private Acts of 1972, Chapter 399

**SECTION 2.** That each participant that has an adjusted equity shall from the date of retirement receive 120 equal monthly payments and providing that each participant that retired prior to the effective date of this Act shall be paid an additional fifty dollars (\$50.00) per month until the difference in what has been paid to the participant from the equity fund that was established by said Chapter 96 of the Private Acts of 1969 and what the participant would have received if the provisions of this Act had been effective July 1, 1969, and be it further provided that no participant shall receive less pension than that being paid prior to the effective date of this Act.

Effective July 1, 1978, each participant that has an adjusted equity shall from the date of retirement receive one hundred twenty (120) equal monthly payments computed and valued as in the paragraph above. In addition each participant shall further be entitled to the receipt of an additional thirty (30) payments in the same monthly amount as the initial one hundred twenty (120) equal monthly payments. Such payments shall be paid from the Hamilton County Department of Education Insurance and Pension Funds and the General Fund of Hamilton County.

As amended by: Private Acts of 1972, Chapter 399

Private Acts of 1978, Chapter 320

**SECTION 3.** That a "participant" is an employee who has retired or may retire under the provisions of this Act.

As amended by: Private Acts of 1972, Chapter 399

**SECTION 4.** That upon the participant's death prior to receiving the full amount of the adjusted equity, then the participant's named beneficiary or beneficiaries shall receive the monthly check so long as one would have been due the retiree had he continued to live; provided however, if the named beneficiary or beneficiaries cannot be located or died prior to the retiree's death or dies prior to receiving the checks which would have been payable to the retiree, the estate shall be paid a lump sum equal to 100% of the amount not withdrawn.

As amended by: Private Acts of 1972, Chapter 399

**SECTION 5.** That the Pension Commission is hereby required to have an actuary study made of this program at least once every five years and if not actuarially sound, then to revise the same and to request the indicated legislation; the cost of said study shall be paid from the pension fund.

**SECTION 6.** That all laws or parts of laws in conflict with the provisions of this Act, be, and the same are hereby, repealed.

**SECTION 7.** That before this Act becomes effective the same must be approved by a two-thirds (2/3) majority vote of the governing body of Hamilton County, the same being the County Council of said County, and that said vote shall be taken within sixty (60) days from the enactment of this Act. Its approval or non-approval shall be proclaimed by the presiding officer of said County Council, and shall be certified by him to the Secretary of State.

**SECTION 8.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: April 15, 1969.

## Private Acts of 1981 Chapter 136

**SECTION 1.** All sections of any act which requires contributions from the general funds of Hamilton County to the Hamilton County Education Department's insurance and pension fund, and which have not

been previously repealed, are repealed on June 30, 1981.

**SECTION 2.** The County Executive, the County Administrator of Finance, and the County Auditor shall determine each year, before the budget is adopted by the Hamilton County Legislative Body, the funds necessary to meet the financial responsibilities of the Hamilton County Education Department's insurance and pension plan for the next fiscal year. The County Administrator of Finance shall be required to see that any funds appropriated by the County Commission or allocated by the County School Board for this purpose are deposited into the Hamilton County Education Department's insurance and pension fund in a separate account kept by the County Trustee for the payment of benefits to participating members of this Pension System, it being the intent of this act that the said funds shall come from the established levy for educational purposes.

**SECTION 3.** Any act or part thereof which is in conflict with any provision of this act is repealed.

**SECTION 4.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the County Legislative Body of Hamilton County before June 30, 1981. Its approval or nonapproval shall be proclaimed by the presiding officer of the County Legislative Body and certified by him to the Secretary of State.

**SECTION 5.** 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 4.

Passed: May 19, 1981.

## Private Acts of 2004 Chapter 69

**SECTION 1.** Chapter 689 of the Private Acts of 1937, as amended by Chapter 242 of the Private Acts of 1945, Chapter 134 of the Private Acts of 1949, Chapter 186 of the Private Acts of 1951, Chapter 65 of the Private Acts of 1953, Chapter 361 of the Private Acts of 1961, Chapter 146 of the Private Acts of 1963, Chapter 399 of the Private Acts of 1972, Chapter 320 of the Private Acts of 1978, Chapter 136 of the Private Acts of 1981 and all acts amendatory thereto, is further amended by inserting the following language and sections:

It is the intention of the County that the Hamilton County Department of Education Insurance and Pension Fund Employees' Retirement Act 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 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 2.** 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 3.** 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 (1) above 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 3(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 benefits 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 as 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 any 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, a 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, pre-retirement 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 1.415-3(c)(2)(iii) of the Treasury Regulations.

(3) "Compensation" means solely for purposes of this section; wages, salaries, and fees for 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 pick-up contributions and contributions made by the employer (whether or not under a salary reduction agreement) toward 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 these subdivisions (3)(A) and (B), 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 dollars (\$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 3(d)(10) below.

Notwithstanding other provisions of this subsection (5), 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 accounts, 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 the 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, shall not be recomputed to treat all employee contributions as annual additions.

(7) "Employer" means, for purposes of this section, the Hamilton County Department of Education 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 will be 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 paragraph).

(B) Adjustment for 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 paragraph 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 of a member commences before age fifty-five (55), the minimum amount 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 subdivision 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 (i) above shall not apply to any benefit payable as a result of the member becoming disabled or to any benefit payable to the beneficiaries, survivors, or estate of a 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:

(i) The member shall continue employment until normal retirement age under the plan (or current age, if later), and

(ii) 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 disabled 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 actuarially 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 before 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 11 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 Act 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 417(e)(3) of the Code, as amended. Solely for purposes of determining the benefit attributable to employee contributions, to computer the limitations in this section, interest shall be credited to such contributions at the following rates. For periods 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 4. 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 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 5. 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 his 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.

(c) 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 the situations described in (1) and (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 (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 6. 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: (1) 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; (2) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and (3) the portion of any distribution that is not includible in gross income.

**SECTION 7.** 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 8.** Family and 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 9.** 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 non-forfeitable.

**SECTION 10.** Plan Forfeitures - Any 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 any remaining plan members.

**SECTION 11.** 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 12.** 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 Department of Education Insurance and Pension fund Employees' Retirement Act.

(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 13.** 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 nonapproval shall be proclaimed by the presiding officer of such county legislative body and certified by him to the secretary of state.

**SECTION 14.** 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 13.

Passed: February 2, 2004

## Private Acts of 2014 Chapter 67

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

**SECTION 1.** Chapter 689 of the Private Acts of 1937, as amended by Chapter 242 of the Private Acts of 1945, Chapter 134 of the Private Acts of 1949, Chapter 186 of the Private Acts of 1951, Chapter 110 of the Private Acts of 1953, Chapter 111 of the Private Acts of 1953, Chapter 149 of the Private Acts of 1957, Chapter 148 of the Private Acts of 1957, Chapter 361 of the Private Acts of 1961, Chapter 146 of the Private Acts of 1963, Chapter 147 of the Private Acts of 1963, Chapter 399 of the Private Acts of 1972, Chapter 320 of the Private Acts of 1978, Chapter 136 of the Private Acts of 1981, Chapter 69 of the Private Acts of 2004, such acts comprising the Hamilton County Department of Education Insurance and

Pension Fund 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 689 of the Private Acts of 1937, as amended by Chapter 242 of the Private Acts of 1945, Chapter 134 of the Private Acts of 1949, Chapter 186 of the Private Acts of 1951, Chapter 110 of the Private Acts of 1953, Chapter 111 of the Private Acts of 1953, Chapter 149 of the Private Acts of 1957, Chapter 148 of the Private Acts of 1957, Chapter 361 of the Private Acts of 1961, Chapter 146 of the Private Acts of 1963, Chapter 147 of the Private Acts of 1963, Chapter 399 of the Private Acts of 1972, Chapter 320 of the Private Acts of 1978, Chapter 136 of the Private Acts of 1981, Chapter 69 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by adding the following language as a new section:

Section 13. Provisions relating to EGTRRA, PFEA, PPA and HEART.

#### 13.01 Preamble

- (a) Adoption and effective date of Section. This Section 13 reflects recent law changes and related guidance to Code section 401 (a) which applies to qualified retirement plans sponsored by state and local governments. The County of Hamilton, Tennessee (the "County"), intends that this Plan continue to be considered a tax-qualified plan under Code section 401 (a) and, therefore, amends the Plan in accordance with the terms of this Section 13.
- (b) Superseding of inconsistent provisions. This Section 13 supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Section.
- (c) Construction. Except as otherwise provided in this Section 13, any reference to "Section" herein refers only to sections within this Section 13, and is not a reference to other sections of the Plan.

#### 13.02 Limitations on Benefits.

- (a) The limitations of this Section 13 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 13 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 13.08). For purposes of this Section 13, 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 13. For a Participant who has or will have distributions commencing at more than one (1) Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date, and shall satisfy the limitations of this Section 13 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)1 (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 13, 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 13 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&A3(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 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 13.07 for adjusting

benefits in the same form; and (II) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 13.07 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 13.07 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:

(A) 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;

(B) 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

(C) 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 13.02, 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 13.02, 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 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, 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 commission 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).

(a) 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 13.07; or (2) a five percent (5%) interest rate assumption and the applicable mortality table as defined in Section 13.07.

(b) Limitation Years Beginning on or After July 1, 2007.

(1) 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 13.07, and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.

(2) 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)(b)(1) 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 13.02.

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

(a) Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is after age sixtyfive (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 13.07; or (2) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 13.07.

(b) Limitation Years Beginning Before July 1, 2007.

(1) 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 sixtyfive (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 13.07, and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.

(2) 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)(b)(1) 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 13.02. 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-month period.

(f) Notwithstanding any provision of this Section 13.02, the application of this Section 13.02 shall be subject to such rules as may be prescribed by the Secretary of the Treasury.

### 13.03. 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 13.03, 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 in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

#### 13.04 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 13.04 will take precedence over any inconsistent provisions of the Plan.

(c) All distributions required under this Section 13.04 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 the other provisions of this Section 13.04, 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 April 1 of the calendar year following the later of:

- (1) The calendar year in which the Participant attains age seventy and one-half (70½); 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 (70½), 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 13.04(f), other than subsection (1), will apply as if the surviving Spouse were the Participant.

For purposes of this subsection (f) and subsections (n),(o) and (p) of this Section 13.04, distributions are considered to begin on the Participant's required beginning date, or, if Section 13.04(f)(4) applies, the date distributions are required to begin to the surviving Spouse under Section 13.04(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 13.04(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 13.04. 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 13.04;
- (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; and
- (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, that is, 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 13.04(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 13.04.

(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 13.04(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 13.04 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 13.04.

(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 (1). 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 (I) 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 13.04(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 13.04(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 13.04(f).

(q) Definitions.

(1) Actuarial Gain. The term "actuarial gain" as used in this Section 13.04 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 13.04 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 13.04 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 13.04(f).

(4) Eligible Cost-of-Living Index. The term "eligible cost-of-living index" as used in this Section 13.04 means an index described below:

(A) 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 13.04, means the life expectancy as computed by use of the Single Life Table in Regulation 1.401 (a)(9)-9.

### 13.05 Right to Direct Rollover.

This Section 13.05 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 13.05, 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 accepts 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 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.

#### 13.06 HEART Provisions.

(a) 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.

(b) 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.

#### 13.07 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)(B), (C), or (D) as set forth in Section 13.02 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 twenty-four-month period described in such section;
- (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.

#### 13.08 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 former employee of the Hamilton County Department of Education who is a member in the Plan, or a beneficiary of such a member who is receiving benefits under the Plan;
- (4) "Plan" means the Hamilton County Department of Education Insurance and Pension Fund Employees' Retirement Act, 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" means 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 4. 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 5. 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 4.

Passed May 13, 2014.

## Private Acts of 2014 Chapter 69

AN ACT to amend Chapter 689 of the Private Acts of 1937; as amended by Chapter 242 of the Private Acts of 1945; Chapter 134 of the Private Acts of 1949; Chapter 186 of the Private Acts of 1951; Chapter 110 of the Private Acts of 1953; Chapter 111 of the Private Acts of 1953; Chapter 149 of the Private Acts of 1957; Chapter 148 of the Private Acts of 1957; Chapter 361 of the Private Acts of 1961; Chapter 146 of the Private Acts of 1963; Chapter 147 of the Private Acts of 1963; Chapter 399 of the Private Acts of 1972; Chapter 320 of the Private Acts of 1978; Chapter 136 of the Private Acts of 1981; Chapter 69 of the Private Acts of 2004; and any other acts amendatory thereto, relative to the Hamilton County Department of Education Insurance and Pension Fund Employees' Retirement Act.

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

SECTION 1. Chapter 689 of the Private Acts of 1937, as amended by Chapter 242 of the Private Acts of 1945, Chapter 134 of the Private Acts of 1949, Chapter 186 of the Private Acts of 1951, Chapter 110 of the Private Acts of 1953, Chapter 111 of the Private Acts of 1953, Chapter 149 of the Private Acts of 1957, Chapter 148 of the Private Acts of 1957, Chapter 361 of the Private Acts of 1961, Chapter 146 of the Private Acts of 1963, Chapter 147 of the Private Acts of 1963, Chapter 399 of the Private Acts of 1972, Chapter 320 of the Private Acts of 1978, Chapter 136 of the Private Acts of 1981, Chapter 69 of the Private Acts of 2004, such acts comprising the Hamilton County Department of Education Insurance and Pension Fund Employees' Retirement Act, herein referred to as "the Plan", and any other acts amendatory thereto, is 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 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 2010), and the Moving Ahead for Progress in the 21st Century Act (MAP-21).

SECTION 3. Chapter 689 of the Private Acts of 1937, as amended by Chapter 242 of the Private Acts of 1945, Chapter 134 of the Private Acts of 1949, Chapter 186 of the Private Acts of 1951, Chapter 110 of the Private Acts of 1953, Chapter 111 of the Private Acts of 1953, Chapter 149 of the Private Acts of 1957, Chapter 148 of the Private Acts of 1957, Chapter 361 of the Private Acts of 1961, Chapter 146 of the Private Acts of 1963, Chapter 147 of the Private Acts of 1963, Chapter 399 of the Private Acts of 1972, Chapter 320 of the Private Acts of 1978, Chapter 136 of the Private Acts of 1981, Chapter 69 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 13.02 in its entirety and substituting instead the following:

13.02 Limitations on Benefits.

(a) The limitations of this Section 13.02 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 13.02 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 13.08). For purposes of this Section 13.02, 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 13.02. For a Participant who has or will have distributions commencing at more than one (1) Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date, and shall satisfy the limitations of this Section 13.02 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)-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 13.02, 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 13.02 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 13.07 for adjusting benefits in the same form; and (II) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 13.07 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 13.07 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 (2Yz) 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 (2Yz) 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 13.02, 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 13.02, 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 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 amount: (1) the interest rate and the mortality table, or other tabular factor specified in Section 13.07 of the Plan, or (2) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 13.07 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 13.07 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 (7)(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 Participant's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity at age sixty-five (65), both determined without applying the limitations of this Section 13.02. For this purpose, the adjusted immediately commencing straight life annuity under the Plan 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 (1) Year of Participation be credited for any twelve-month period.

(f) Notwithstanding any provision of this Section 13.02, the application of this Section 13.02 shall be subject to such rules as may be prescribed by the Secretary of the Treasury.

SECTION 4. Chapter 689 of the Private Acts of 1937, as amended by Chapter 242 of the Private Acts of 1945, Chapter 134 of the Private Acts of 1949, Chapter 186 of the Private Acts of 1951, Chapter 110 of the Private Acts of 1953, Chapter 111 of the Private Acts of 1953, Chapter 149 of the Private Acts of 1957, Chapter 148 of the Private Acts of 1957, Chapter 361 of the Private Acts of 1961, Chapter 146 of the Private Acts of 1963, Chapter 147 of the Private Acts of 1963, Chapter 399 of the Private Acts of 1972, Chapter 320 of the Private Acts of 1978, Chapter 136 of the Private Acts of 1981, Chapter 69 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 13.03 in its entirety and substituting instead the following:

13.03. 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 13.03, 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 689 of the Private Acts of 1937, as amended by Chapter 242 of the Private Acts of 1945, Chapter 134 of the Private Acts of 1949, Chapter 186 of the Private Acts of 1951, Chapter 110 of the Private Acts of 1953, Chapter 111 of the Private Acts of 1953, Chapter 149 of the Private Acts of 1957, Chapter 148 of the Private Acts of 1957, Chapter 361 of the Private Acts of 1961, Chapter 146 of the Private Acts of 1963, Chapter 147 of the Private Acts of 1963, Chapter 399 of the Private Acts of 1972, Chapter 320 of the Private Acts of 1978, Chapter 136 of the Private Acts of 1981, Chapter 69 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 13.05 in its entirety and substituting instead the following:

13.05 Right to Direct Rollover. This Section 13.05 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 13.05, 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 accepts 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; and
- (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 to an annuity contract described in Code section 403(b) 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 describe 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 6. Chapter 689 of the Private Acts of 1937, as amended by Chapter 242 of the Private Acts of 1945, Chapter 134 of the Private Acts of 1949, Chapter 186 of the Private Acts of 1951, Chapter 110 of the Private Acts of 1953, Chapter 111 of the Private Acts of 1953, Chapter 149 of the Private Acts of 1957, Chapter 148 of the Private Acts of 1957, Chapter 361 of the Private Acts of 1961, Chapter 146 of the Private Acts of 1963, Chapter 147 of the Private Acts of 1963, Chapter 399 of the Private Acts of 1972, Chapter 320 of the Private Acts of 1978, Chapter 136 of the Private Acts of 1981, Chapter 69 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 13.07 in its entirety and substituting instead the following:

13.07 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 described in Section 13.02 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 thirty-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)(D), and determined without regard to the adjustment for the twenty-five-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. Ruling 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 2008-85.

(3) For purposes of Section 13.07(b), the "stability period" is the plan year in which the Participant's Annuity Starting Date occurs, and the "lookback month" is the first 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 one-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.

## Education/Schools - Historical Notes

### **Board of Education**

The following acts once affected the board of education in Hamilton County but are no longer operative. Also referenced below is an act which repealed prior law without providing new substantive provisions.

Private Acts of 1927, Chapter 387, created the office of chairman of the county board of education, to be appointed by the county judge; his salary was to be \$3,000 yearly, and he was to devote full time to the duties of the office as outlined in the Act. This act was repealed by Private Acts of 1929, Chapter 72, published herein, which was identical to this act except the quarterly county court, rather than the county judge, appointed the chairman.

Private Acts of 1978, Chapter 245, directed the election commissioners to hold a referendum election on the following three issues: (1) to retain the present method of appointment of members of the county school board and the superintendent of county schools by the quarterly county court of Hamilton County; (2) to elect the members of the board and the county superintendent of schools by popular vote; or, (3) to elect the members of the school board by popular vote, abolish the office of school superintendent, and provide for a school administrator to be appointed by the school board.

Private Acts of 1992, Chapter 235, divided Hamilton County into school districts which were to be coextensive with the county commissioner districts established by the county legislative body of Hamilton County and provided that the Hamilton County Board of Education would consist of the same number of members as the number of county commissioner districts in Hamilton County. This act was repealed by Private Acts of 2020, Chapter 50, published herein, which increased the membership of the Hamilton County board of education from nine members to 11 members.

### **Superintendent or Director of Schools**

The acts referenced below once affected the office of superintendent of education in Hamilton County, but are no longer operative.

1. Public Acts of 1895, Chapter 155, prohibited the county superintendents of public instruction in counties exceeding 30,000 inhabitants (no particular census designated) from teaching in any public school, nor could they make any contract for building or repairing school property, or become the owner of any school warrant other than the one allowed as superintendent.
2. Public Acts of 1899, Chapter 326, authorized and empowered the school directors of the twenty-seventh school district of the seventh civil district of Hamilton County to sell and convey the grounds and buildings in said district known as Harrison Academy.
3. Acts of 1901, Chapter 484, amended Chapter 326, above, so that the school directors would be compelled to pay any funds, undisbursed and left in their hands after improvements were made, into the common school funds of the county.
4. Private Acts of 1943, Chapter 332, states that in counties between 180,478 and 180,500, census of 1940, or later, despite any general act fixing such terms at a different length, the term of the county superintendent of education was to be two years, computed from the date of his qualification. This statute was ruled unconstitutional by the chancellor, which ruling was reversed by the Supreme Court in Clark v. Smith, 193 Tenn. 194, 245 S.W.2d 197 (1951). The Private Acts 1943, Chapter 332, was repealed by Private Acts of 1988, Chapter 177.

5. Private Acts of 1955, Chapter 31, abolished the office of county superintendent of public instruction and established the position of director of schools, subject to a referendum. The referendum produced a favorable vote but this act was declared to be unconstitutional on two grounds by the supreme court in the case of Cagle v. McCanless, 199 Tenn. 128, 285 S.W.2d 118 (1955).
6. Private Acts of 1988, Chapter 177, set the next election of the superintendent of public instruction by the county legislative body of Hamilton County to be held on or before June 1, 1988 and quadrennially thereafter. The term was for four (4) years and commence on January 15 following the election of the superintendent. This act has been superseded by general law enacted in 1992. Popularly elected school superintendents have been replaced by directors of schools appointed by the school board pursuant to T.C.A. §§ 49-2-203 and 49-2-301.

### **General Reference**

The following acts constitute part of the administrative and political heritage of the educational structure of Hamilton County but are no longer operative since they have either been superseded, repealed, or failed to receive local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1831, Chapter 1, gave the names of the initial trustees of the Hamilton Male Academy and by this act, they were incorporated as such and authorized to purchase, receive and hold any lands, goods or chattels given, granted, devised to them or purchased by them for the use and benefit of said Academy. They trustees were give the power to hold meetings pertaining to the business of the Academy, to appoint a president, secretary and treasurer of the board, and in case of the death or resignation of any trustee, the successor was to be appointed or elected by the county court. The board of trustees was also empowered to make bylaws, rules and regulations relating to the Academy.
2. Acts of 1839-40, Chapter 138, provided that the clerk of any school section in the Ocoee District in which lay the chief part of arable lands in Meigs, Hamilton or Marion counties was to have the management of the whole section, and rent the school lands from year to year, or longer periods of time not exceeding five years.
3. Acts of 1843-44, Chapter 28, appointed James A. Whiteside, of Hamilton County, as agent for the school lands and authorized him to demand damages from the State of Georgia for the right-of-way granted to the Western and Atlantic Railroad which passed through some of the school properties. The damages received were to be paid over to the school commissioners. The agent was to receive a 6% commission for his services.
4. Acts of 1847-48, Chapter 104, named H. W. VanAldenhoff as president, and Robert M. Hook, William A. Anderson, Allen Kennedy, Milo Smith, Thomas McCallie, James A. Whiteside, John P. Long and John G. Glass as Trustees of the Chattanooga Seminary, with all the usual corporate powers being granted to them as a non-profit educational institution.
5. Private Acts of 1857-58, Chapter 95, Section 10, declared that Lewis Patterson, J. P. Coulter, Thomas J. Coulter, A. A. Pearson, J. W. Grimsley, John H. Shipley, Jesse Shipley, John Gray, Col. William Clift, B. J. McDonald, and Nathan Shipley constituted a body politic and corporate to be known as the Sale Creek Academy in Hamilton County.
6. Acts of 1905, Chapter 115, created the twenty-first school district within the then second and third districts. A metes and bounds description of the new district was set forth in the act, and three school directors were to be appointed by the county superintendent for the new district.
7. Acts of 1907, Chapter 530, changed the line between the third and twenty-first school districts of Hamilton County such that all that part of the third school district not included within the corporate limits of the taxing district of Hill City was attached to and constituted a part of the twenty-first school district.
8. Private Acts of 1911, Chapter 205, amended Acts of 1907, Chapter 236, Section 12, by setting the compensation of all members of the county board of education in Hamilton County at \$150 annually, except the chairman, who was to be paid \$250 per annum.
9. Private Acts of 1915, Chapter 585, authorized county boards of education in Hamilton to contract for the transportation of children to and from their schools in the manner for their best interests, and to issue warrants for payment of same.
10. Private Acts of 1917, Chapter 426, stated that in counties having a population not less than 89,000 nor more than 90,000, according to the Federal Census of 1910, or later, all warrants issued for payment of debts in the operation of the grammar and high schools were to come from the office of county judge; all income of the school system for these schools was to be paid to the

county trustee; and, all requests for supplies were to be given to the purchasing agent after having been approved by the county superintendent of schools.

11. Private Acts of 1931, Chapter 554, also amended Public Acts of 1925, Chapter 115, by exempting counties with population of not less than 158,000 nor more than 160,000, according to the Federal Census of 1930, or later, from the provisions of the last three paragraphs of Section 19 relating to the enumeration of the school census, thus making it unnecessary to be taken in Hamilton County.
12. Private Acts of 1935, Chapter 620, authorized county boards of education in counties of population not less than 159,000 nor more than 200,000, according to the Federal Census of 1930, or later, to employ teachers, supervisors, and principals of schools, and the minimum salaries to be paid were not to be less than that provided in the schedule set out in the act in Section 2. This act was amended by Private Acts of 1935 (Ex. Sess.), Chapter 82, and both statutes were declared unconstitutional by the Tennessee Supreme Court in the case of State v. Hamilton County, 170 Tenn. 371, 95 S.W.2d 618 (1936), on the ground that the act placed a burden on Hamilton County which was not placed on any other county of the state.
13. Private Acts of 1935 (Ex. Sess.), Chapter 82, amended the second paragraph of Chapter 620, above, by permitting all service in the county school system to count towards attainment of the 15-year period required by the act to be eligible for some of its benefits. The amendment fell with the Act in the above mentioned case.
14. Private Acts of 1961, Chapter 361, created a supplemental pension board, composed of the county judge, county budget director and county auditor, to act as trustees of, administer and supervise whatever money might be appropriated by the county council for such fund. The board was also responsible for payment to all employees of any educational system of the county who had been retired on a pension prior to the passing of this act and were receiving a pension of \$100 or less per month. Their pensions were to be supplemented such that any retired employee was to receive not less than \$125 per month, as specified in the amending act found in Private Acts of 1963, Chapter 146. The funds for the supplemental pensions were to be appropriated from the Hamilton County general fund. This act was repealed and superseded by Private Acts of 1981, Chapter 136.
15. Private Acts of 1978, Chapter 229, would have allowed the Hamilton County school system to employ a purchasing agent to obtain food, materials and other supplies, but the act was not acted on by local authorities and therefore did not become effective.
16. Private Acts of 1998, Chapter 109, amended Private Acts of 1937, Chapter 689, transferring duties and responsibilities of the Pension Commission to the Trustee of Hamilton County. This act did not receive local approval.

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