

## RESOLUTION 12-47

### AN ORDINANCE AMENDING PARTS OF THE ST. CLAIR COUNTY EMPLOYEES' RETIREMENT SYSTEM ORDINANCE

#### Recitals

A. St. Clair County provides retirement benefits to its retirees pursuant to the terms of the of the St. Clair County Employees' Retirement System Ordinance (the "Retirement System Ordinance").

B. Due to the need to provide language clarification in defining "Insurable Interest" with regard to who can be a named survivor beneficiary to a retiree's pension; amend the definition of "Final Average Compensation" regarding Board of Commissioner previous service; comply with the Heroes Earnings Assistance and Relief Tax Act of 2008, amended Sections 401(a) and 414(u) of the Internal Revenue Code with regard to benefits payable to qualified Retirement System members entering active military service; allow the County Administrator/Controller to be appointed to serve on the Retirement Board of Trustees in place of the Board of Commissioner Chairperson or other Board of Commission member; update employee member Trustee elections with consistent language between the employer groups; and add language to include that the Board of Trustees Officers shall be elected at the first regular meeting in July of each year, the Board of Commissioners wish to amend the St. Clair County Employees' Retirement System ordinance.

THEREFORE, IN CONSIDERATION OF THE FOREGOING, IT IS ORDAINED:

1. Article II, Section 2.1 of the Retirement System Ordinance shall be amended and renumbered as outlined below to include the following definition for "Insurable Interest" inserted as item (e) and the definition for (f) "Final average compensation" regarding Board of Commissioner prior service calculation:
  - (e) "Insurable Interest" means that a named beneficiary has a real financial interest in another person's continued life and will suffer a real financial loss in the event of their death. Immediate family members that are considered to have insurance interest are spouse, children, siblings, parent, grandparent, or grandchild. For the consideration of any person who is not immediate family but who actually rely on the individual for at least fifty percent of their direct financial support, an Affidavit Affirming Existence of Insurance Interest may be completed and submitted to the St. Clair County Board of Trustees for consideration.
  - (f) "Final average compensation" means the average of the annual compensations paid a member during any five years of credited service producing the highest average, contained within the ten years of credited service immediately preceding the member's last termination of employment with the county, if the member has at least five years of credited service. Final average compensation means the

aggregate amount of compensation paid a member divided by the member's years and fractions of a year of credited service if the member has less than five years of credited service. Certain specified bargaining units within the Sheriff Department have their final average compensation based on the average of the highest three of the last ten years of service. A member or former member of the St. Clair County Board of Commissioners who was a member of the defined benefit plan prior to January 1, 2009 who thereafter rendered service in that elected position without interruption shall receive credit to their individual credited service account to the point of separation from that position and shall have the option to base their final average compensation on the best three (3) of the previous ten (10) years of credited service that occurred prior to their election to the Board of Commissioners.

2. Article IV, Section 4.4 of the Retirement System Ordinance shall be amended and renumbered to incorporate benefits payable to qualified Retirement System members entering active military service in accordance with Sections 401(a) and 414(u) of the Internal Revenue Code, as amended, and to include the death benefits as required by Section 104(a) of the Heroes Earnings Assistance and Relief Tax Act ("HEART Act") as follows:
  - (b) In the case of a death occurring on or after January 1, 2007, a member on a leave of absence to perform military service with reemployment rights described in Code Section 414(u) where the member cannot return to employment on account of his or her death, the beneficiary of the member shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under the Plan had the member died as an active employee, in accordance with Code Section 401(a)37.
3. Article XII, Section 12.2 of the Retirement System Ordinance shall be amended and renumbered to allow the County Administrator/Controller to be appointed to serve on the Retirement Board of Trustees in place of the Board of Commissioner Chairperson or other Board of Commission member and to update employee member elections with clarifying and consistent language as follows:
  - (a) The chairperson of the Board of County Commissioners by virtue of that office. By written communication directed to the Board of Trustees, the chairperson may designate another County Commissioner or the County Administrator/Controller to serve in the chairperson's place for one-year terms.
  - (c) A member of the Board of County Commissioners or the County Administrator/Controller to be selected by and to serve at the pleasure of the Board of County Commissioners for one-year terms.
  - (f) A member of the retirement system who is in the employ of the Mental Health Authority, to be elected by the members who are in the employ of the Mental

Health Authority.

- (g) Two members of the retirement system who are not in the employ of the County Road Commission, or the Mental Health Authority to be elected by the members of the retirement system who are not in the employ of the County Road Commission or the Mental Health Authority. The two trustees shall be from different county departments.
- (h) A "Retired Member" defined as an individual who is being paid a pension on account of the individual's membership in the retirement system, to be elected by the retired members, under the same provisions as the County Road Commission employee representative, Mental Health Authority employee representative and the two other employee member representatives are elected, under Article XII, Section 12.2 and Section 12.3.
- (i) The Board of Trustees shall establish rules and regulations for elections required by paragraphs (e) through (h). The rules and regulations governing the election of employee members of the Board of Trustees are as follows:

4. Article XII, Section 12.5 of the Retirement System Ordinance shall be amended to include that the Board of Trustees Officers shall be elected at the first regular meeting in July of each year as follows:

Section 12.5. The Board of Trustees shall elect from its membership, a chairperson and a vice chairperson at the first regular meeting in July of each year. The county Administrator/Controller shall be the secretary to the Board of Trustees. The County Treasurer shall be the treasurer of the retirement system. The treasurer shall be custodian of the assets of the retirement system except as to such assets as the Board of Trustees may from time to time place in the custody of a custodial bank selected by the Board of Trustees. The Board of Trustees shall be represented by County Corporation Counsel. If specialized counsel is required, the Board of Trustees may employ outside specialized counsel with the advice of County Corporation Counsel. The Board of Trustees shall designate an actuary who shall advise the Board on the actuarial operation of the retirement system. Actuary shall mean a member of the American Academy of Actuaries or an individual who has demonstrated the educational background necessary to effectively render actuarial advice to the retirement system and who has at least five years of relevant pension actuarial experience. A partnership or corporation may be designated an actuary if the duties of actuary are performed by or under the direct supervision of an individual who meets the preceding requirements. The Board of Trustees is authorized and empowered to employ such professional and other services as it required for the proper discharge of its responsibilities. The Board of Trustees may utilize the services of county employees if made available.

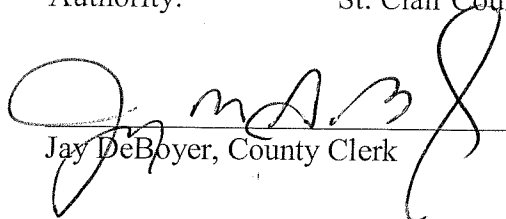
Except as amended by this Ordinance, the Retirement System Ordinance shall remain in full force and effect.

This Ordinance shall become effective January 1, 2013.

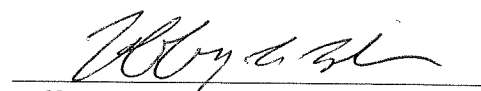
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Jay DeBoyer, County Clerk



Jeffrey L. Bohm, Chair  
Board of Commissioners